

Notice of Ways and Means Motion to Amend the Income Tax Act, to implement measures that are consequential on changes to the Canada-U.S. Tax Convention (1980) and to amend the Income Tax Conventions Interpretation Act, the Old Age Security Act, the War Veterans Allowance Act and certain Acts related to the Income Tax Act

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That it is expedient to amend the Income Tax Act, to implement measures that are consequential on changes to the Canada-U.S. Tax Convention (1980) and to amend the Income Tax Conventions Interpretation Act, the Old Age Security Act, the War Veterans Allowance Act and certain Acts related to the Income Tax Act as follows:

SUMMARY

These amendments implement the draft income tax measures announced in the February 1998 budget, as well as several other announced measures. Those amendments of greater significance are summarized below.

(1) **Supplementary Personal Tax Credit:** introduces a new non-refundable tax credit for individuals, to an annual maximum of \$500 (\$250 for 1998).

(2) **Surtax Reduction for Individuals:** decreases the individual surtax by a maximum of \$250 (\$125 for 1998).

(3) **Home Buyers' Plan (HBP):** modified to allow tax-free withdrawals from RRSPs to acquire homes for disabled individuals, whether or not the disabled individual or withdrawing individual is a first-time homebuyer.

(4) **Tax Credit for Interest on Student Loans:** introduces a new non-refundable tax credit for interest paid on outstanding student loans.

(5) **Registered Education Savings Plans (RESPs):** increases to \$50,000 (from \$40,000) the lifetime limit on RESP income that can be transferred on a tax-deductible basis to an RRSP, introduces a \$5,000 limit on the amount of educational assistance payments that can be made during the first three months of a beneficiary's education, and introduces qualified investment rules for RESPs.

(6) **Lifelong Learning Plan:** permits Canadian residents to make tax-free withdrawals from RRSPs to finance full-time training for themselves or their spouses.

(7) **Part-Time Education:** permits eligible part-time students to access the education tax credit and the child care expense deduction.

(8) **Child Care Expense Deduction:** increases the annual limit to \$7,000 (from \$5,000) for eligible young children (under age 7) and for other eligible children who have a severe and prolonged mental or physical impairment, and to \$4,000 (from \$3,000) for other eligible children (generally those who are 7 to 16 years of age).

(9) **Caregiver Tax Credit:** provides a new non-refundable tax credit of up to \$400 to a caregiver for each infirm dependent relative, and for each parent or grandparent aged 65 or older, with whom the caregiver resides and provides in-home care.

(10) **Alternative Minimum Tax:** modified to exempt non-taxable rollovers to registered retirement savings plans and registered pension plans from the minimum tax base.

(11) **Relocation Expenses and Employee Loans:** modifies the rules to require inclusion in income of all reimbursements and compensation in respect of financing an employee's residence and one-half the amount in excess of \$15,000 in respect of an eligible housing loss compensated by the employer, and to expand the moving expense deduction to include the cost of revising certain legal documents to reflect the new residence and up to \$5,000 of carrying costs for a vacant former residence.

(12) **Emergency Volunteers:** replaces the current exclusion from income for up to \$500 of allowances received by volunteer firemen with a deduction of up to \$1,000 to emergency volunteers.

(13) **Meal and Entertainment Expenses:** waives the 50% limitation for meal and entertainment expenses incurred by employers in respect of employees at semi-remote work sites, and caps the exception to the 50% limitation for amounts incurred to provide meals and entertainment to all employees at a particular location to six occasional events per year.

(14) **Private Health Service Plan (PHSP) Premiums:** provides for a deduction to an individual, who carries on a business, of the cost of certain PHSP premiums paid for the individual, the individual's spouse and members of the individual's household.

(15) **Scientific Research and Experimental Development (SR & ED):** introduces a mechanism to recapture SR & ED tax credits where the property that generated the credit is subsequently sold or converted to commercial use.

(16) **Labour-Sponsored Venture Capital Corporations:** increases the annual investment limit to \$5,000 (from \$3,500), and eliminates the three-year "cooling-off" period.

(17) **Assessments:** ensures that the Minister of National Revenue may advance alternative arguments in support of an income tax assessment after the normal reassessment period has expired.

SHORT TITLE

Short title

1. This Act may be cited as the *Income Tax Amendments Act, 1998*.

PART 1

R.S., c. 1 (5th
Supp.); 1994, cc.
7, 8, 13, 21, 28,
29, 38, 41; 1995,
cc. 1, 3, 11, 18,
21, 38, 46; 1996,
cc. 11, 21, 23;
1997, cc. 10, 12,
25, 26; 1998, cc.
19, 21, 34

INCOME TAX ACT

2. (1) Subparagraph 6(1)(b)(viii) of the *Income Tax Act* is repealed.

(2) Section 6 of the Act is amended by adding the following after subsection (18):

Benefit re housing
loss

(19) For the purpose of paragraph (1)(a), an amount paid at any time in respect of a housing loss (other than an eligible housing loss) to or on behalf of a taxpayer or a person who does not deal at arm's length with the taxpayer in respect of, in the course of or because of, an office or employment is deemed to be a benefit received by the taxpayer at that time because of the office or employment.

Benefit re
eligible housing
loss

(20) For the purpose of paragraph (1)(a), an amount paid at any time in a taxation year in respect of an eligible housing loss to or on behalf of a taxpayer or a person who does not deal at arm's length with the taxpayer in respect of, in the course of or because of, an office or employment is deemed to be a benefit received by the taxpayer at that time because of the office or employment to the extent of the amount, if any, by which

(a) one half of the amount, if any, by which the total of all amounts each of which is so paid in the year or in a preceding taxation year exceeds \$15,000
exceeds

(b) the total of all amounts each of which is an amount included in computing the taxpayer's income because of this subsection for a preceding taxation year in respect of the loss.

Housing loss

(21) In this section, "housing loss" at any time in respect of a residence of a taxpayer means the amount, if any, by which the greater of

(a) the adjusted cost base of the residence at that time to the taxpayer or to another person who does not deal at arm's length with the taxpayer, and

(b) the highest fair market value of the residence within the six-month period that ends at that time

exceeds

(c) if the residence is disposed of by the taxpayer or the other person before the end of the first taxation year that begins after that time, the lesser of

(i) the proceeds of disposition of the residence, and

(ii) the fair market value of the residence at that time, and

(d) in any other case, the fair market value of the residence at that time.

Eligible housing
loss

(22) In this section, "eligible housing loss" in respect of a residence designated by a taxpayer means a housing loss in respect of an eligible relocation of the taxpayer or a person who does not deal at arm's length with the taxpayer and, for these purposes, no more than one residence may be so designated in respect of an eligible relocation.

Employer-provided
housing subsidies

(23) For greater certainty, an amount paid or the value of assistance provided by any person in respect of, in the course of or because of, an individual's office or employment in respect of the cost of, the financing of, the use of or the right to use, a residence is, for the purposes of this section, a benefit received by the individual because of the office or employment.

(3) Subsection (1) applies to the 1998 and subsequent taxation years.

(4) Subsection (2) applies

(a) to the 2001 and subsequent taxation years in respect of an eligible relocation of an individual in connection with which the individual begins employment at a new work location before October 1998; and

(b) in any other case, after February 23, 1998.

3. (1) The portion of subsection 7(1) of the Act before paragraph (d) is replaced by the following:

Agreement to issue
securities to
employees

7. (1) Subject to subsection (1.1), where a particular qualifying person has agreed to sell or issue securities of the particular qualifying person, or of a qualifying person with which it does not deal at arm's length, to an employee of the particular qualifying person or of a qualifying person with which it does not deal at arm's length,

(a) if the employee has acquired securities under the agreement, a benefit equal to the amount, if any, by which

(i) the value of the securities at the time the employee acquired them exceeds the total of

(ii) the amount paid or to be paid to the particular qualifying person by the employee for the securities, and

(iii) the amount, if any, paid by the employee to acquire the right to acquire the securities

is deemed to have been received, in the taxation year in which the employee acquired the securities, by the employee because of the employee's employment;

(b) if the employee has transferred or otherwise disposed of rights under the agreement in respect of some or all of the securities to a person with whom the employee was dealing at arm's length, a benefit equal to the amount, if any, by which

(i) the value of the consideration for the disposition exceeds

(ii) the amount, if any, paid by the employee to acquire those rights

shall be deemed to have been received, in the taxation year in which the employee made the disposition, by the employee because of the employee's employment;

(c) if rights of the employee under the agreement have, by one or more transactions between persons not dealing at arm's length, become vested in a person who has acquired securities under the agreement, a benefit equal to the amount, if any, by which

(i) the value of the securities at the time the person acquired them exceeds the total of

(ii) the amount paid or to be paid to the particular qualifying person by the person for the securities, and

(iii) the amount, if any, paid by the employee to acquire the right to acquire the securities,

is deemed to have been received, in the taxation year in which the person acquired the securities, by the employee because of the employee's employment, unless at the time the person acquired the securities the employee was deceased, in which case such a benefit is deemed to have been received by the person in that year as income from the duties of an employment performed by the person in that year in the country in which the employee primarily performed the duties of the employee's employment;

(2) The portion of paragraph 7(1)(e) of the Act before subparagraph (i) is replaced by the following:

(e) if the employee has died and immediately before death owned a right to acquire securities under the agreement, a benefit equal to the amount, if any, by which

(3) The portion of subsection 7(1.1) of the Act after paragraph (c) is replaced by the following:

in applying paragraph (1)(a) in respect of the employee's acquisition of the share, the reference in that paragraph to "the taxation year in which the employee acquired the securities" shall be read as a reference to "the taxation year in which the employee disposed of or exchanged the securities".

(4) Section 7 of the Act is amended by adding the following after subsection (1.1):

Non-arm's length
relationship with
trusts

(1.11) For the purposes of this section, a mutual fund trust is deemed not to deal at arm's length with a corporation only if the trust controls the corporation.

(5) Subsection 7(1.4) of the Act is replaced by the following:

Exchange of
options

(1.4) Where

(a) a taxpayer disposes of rights under an agreement referred to in subsection (1) or (1.1) to acquire securities of a particular qualifying person that made the agreement or of a qualifying person with which it does not deal at arm's length (which rights and securities are referred to in this subsection and paragraph 110(1)(d) as the "exchanged option" and the "old securities", respectively),

(b) the taxpayer receives no consideration for the disposition of the exchanged option other than rights under an agreement with a person (in this subsection referred to as the "designated person") that is

(i) the particular person,

(ii) a qualifying person with which the particular person does not deal at arm's length immediately after the disposition,

(iii) a corporation formed on the amalgamation or merger of the particular person and one or more other corporations,

(iv) a mutual fund trust to which the particular person has transferred property in circumstances to which subsection 132.2(1) applied, or

(v) a qualifying person with which the corporation referred to in subparagraph (iii) does not deal at arm's length immediately after the disposition

to acquire securities of the designated person or a qualifying person with which the designated person does not deal at arm's length (which rights and securities are referred to in this subsection as the "new option" and the "new securities", respectively), and

(c) the amount, if any, by which

(i) the total value of the new securities immediately after the disposition exceeds

(ii) the total amount payable by the taxpayer to acquire the new securities under the new option

does not exceed the amount, if any, by which

(iii) the total value of the old securities immediately before the disposition

exceeds

(iv) the amount payable by the taxpayer to acquire the old securities under the exchanged option,

for the purposes of this section,

(d) the taxpayer is deemed not to have disposed of the exchanged option and not to have acquired the new option,

(e) the new option is deemed to be the same option as, and a continuation of, the exchanged option, and

(f) if the designated person is not the particular person, the designated person is deemed to be the same person as, and a continuation of, the particular person.

(6) Subsections 7(2) and (3) of the Act are replaced by the following:

Securities held by
trustee

(2) If a security is held by a trustee in trust or otherwise, whether absolutely, conditionally or contingently, for an employee, the employee is deemed, for the purposes of this section and paragraphs 110(1)(d) and (d.1),

(a) to have acquired the security at the time the trust began to so hold it; and

(b) to have exchanged or disposed of the security at the time the trust exchanged it or disposed of it to any person other than the employee.

Special provision

(3) If a particular qualifying person has agreed to sell or issue securities of the particular person, or of a qualifying person with which it does not deal at arm's length, to an employee of the particular person or of a qualifying person with which it does not deal at arm's length,

(a) except as provided by this section, the employee is deemed to have neither received nor enjoyed any benefit under or because of the agreement; and

(b) the income for a taxation year of any person is deemed to be not less than its income for the year would have been if a benefit had not been conferred on the employee by the sale or issue of the securities.

(7) Subsection 7(6) of the Act is replaced by the following:

Sale to trustee
for employees

(6) If a particular qualifying person has entered into an arrangement under which securities of the particular person, or of a qualifying person with which

it does not deal at arm's length, are sold or issued by either person to a trustee to be held by the trustee in trust for sale to an employee of the particular person or of a qualifying person with which it does not deal at arm's length,

(a) for the purposes of this section (other than subsection (2)) and paragraphs 110(1)(d) and (d.1),

(i) any particular rights of the employee under the arrangement in respect of those securities are deemed to be rights under a particular agreement with the particular person under which the particular person has agreed to sell or issue securities to the employee,

(ii) any securities acquired under the arrangement by the employee or by a person in whom the particular rights have become vested are deemed to be securities acquired under the particular agreement, and

(iii) any amounts paid or agreed to be paid to the trustee for any securities acquired under the arrangement by the employee or by a person in whom the particular rights have become vested are deemed to be amounts paid or agreed to be paid to the particular person for securities acquired under the particular agreement; and

(b) subsection (2) does not apply in respect of securities held by the trustee under the arrangement.

Definitions

(7) The definitions in this subsection apply in this section and in paragraph 110(1)(d).

"qualifying
person"
« *personne
admissible* »

"qualifying person" means a corporation or a mutual fund trust.

"security"
« *titre* »

"security" of a qualifying person means

(a) if the person is a corporation, a share of the capital stock of the corporation; and

(b) if the person is a mutual fund trust, a unit of the trust.

(8) Subsections (1) to (5), subsection 7(2) of the Act, as enacted by subsection (6), and subsection 7(6) of the Act, as enacted by subsection (7), apply to the 1998 and subsequent taxation years.

(9) Subsection 7(3) of the Act, as enacted by subsection (6), applies to the 1995 and subsequent taxation years, except that the reference in paragraph 7(3)(b) of the Act, as enacted by subsection (6), to "person" shall be read as "corporation" in respect of benefits conferred before March 1998.

(10) Subsection 7(7) of the Act, as enacted by subsection (7), applies after 1994 but, except for the purpose of applying paragraph 7(3)(b) of the Act, as enacted by subsection (6), does not apply to a right under an agreement made before March 1998 to sell or issue trust units to an individual unless

(a) the right was outstanding at the end of February 1998 and was not disposed of before March 1998 in circumstances to which paragraph 7(1)(b) of the Act, as enacted by subsection (1), applies; and

(b) the individual so elects in writing filed with the Minister of National Revenue on or before the later of

(i) the filing-due date for the individual's taxation year that includes the earlier of

(A) the time of the individual's death, and

(B) the time that the right was first disposed of after February 1998, and

(ii) the day that is six months after the end of the month in which this Act is assented to.

4. (1) Subsection 8(1) of the Act is amended by adding the following before paragraph (b):

Volunteers'
deduction

(a) in respect of each employer of the taxpayer that is a government, municipality or public authority, the lesser of \$1,000 and the total of all amounts received in the year by the taxpayer from the employer that are

(i) included in the taxpayer's income for the year from an office or employment, and

(ii) from the performance, as a volunteer, of the taxpayer's duties as

(A) an ambulance technician,

(B) a firefighter, or

(C) a person who assists in the search or rescue of individuals or in other emergency situations,

except that no amount may be so deducted in respect of an employer if the taxpayer is employed in the year, otherwise than as a volunteer, by the employer in connection with the performance of any of the duties referred to in subparagraph (ii) or of similar duties;

(2) Subsection 8(10) of the Act is replaced by the following:

Certificate of
employer

(10) An amount otherwise deductible for a taxation year under paragraph (1)(a), (f), (h) or (h.1) or subparagraph (1)(i)(ii) or (iii) by a taxpayer shall not be deducted unless a prescribed form signed by the taxpayer's employer certifying that the conditions set out in that paragraph or subparagraph, as the case may be, were met in the year in respect of the taxpayer is filed with the taxpayer's return of income for the year.

(3) Subsection 8(12) of the Act is replaced by the following:

Forfeiture of
securities by
employee

(12) If, in a taxation year,

(a) an employee is deemed by subsection 7(2) to have disposed of a security (as defined in subsection 7(7)) held by a trust,

(b) the trust disposed of the security to the person that issued the security,

(c) the disposition occurred as a result of the employee not meeting the conditions necessary for title to the security to vest in the employee, and

(d) the amount paid by the person to acquire the security from the trust or to redeem or cancel the security did not exceed the amount paid to the person for the security,

the following rules apply:

(e) there may be deducted in computing the employee's income for the year from employment the amount, if any, by which

(i) the amount of the benefit deemed by subsection 7(1) to have been received by the employee in the year or a preceding taxation year in respect of the security

exceeds

(ii) any amount deducted under paragraph 110(1)(d) or (d.1) in computing the employee's taxable income for the year or a preceding taxation year in respect of that benefit, and

(f) notwithstanding any other provision of this Act, the employee's gain or loss from the disposition of the security is deemed to be nil and section 84 does not apply to deem a dividend to have been received in respect of the disposition.

(4) Subsections (1) to (3) apply to the 1998 and subsequent taxation years.

5. (1) Subparagraph 12(1)(x)(i) of the Act is replaced by the following:

(i) a person or partnership (in this paragraph referred to as the "payer") who pays the particular amount

(A) in the course of earning income from a business or property,

(B) in order to achieve a benefit or advantage for the payer or for persons with whom the payer does not deal at arm's length, or

(C) in circumstances where it is reasonable to conclude that the payer would not have paid the amount but for the receipt by the payer of amounts from a payer, government, municipality or public authority described in this subparagraph or in subparagraph (ii), or

(2) Subsection 12(1) of the Act is amended by striking out the word "and" at the end of paragraph (z.4), by adding the word "and" at the end of paragraph (z.5) and by adding the following after paragraph (z.5):

Refunds

(z.6) any amount received by the taxpayer in the year in respect of a refund of an amount that was deducted under paragraph 20(1)(vv) in computing income for any taxation year.

(3) Subsection (1) applies to amounts received after February 23, 1998 other than amounts received before 1999 pursuant to an agreement in writing made before February 24, 1998.

(4) Subsection (2) applies to amounts received after February 23, 1998.

6. (1) Subsection 13(4.1) of the Act is amended by striking out the word "and" at the end of paragraph (b) and by replacing paragraph (c) with the following:

(c) where the former property was a taxable Canadian property of the taxpayer, the particular depreciable property is a taxable Canadian property of the taxpayer; and

(d) where the former property was a taxable Canadian property (other than treaty-protected property) of the taxpayer, the particular depreciable property is a taxable Canadian property (other than treaty-protected property) of the taxpayer.

(2) The formula set out in the definition "undepreciated capital cost" in subsection 13(21) of the Act is replaced by the following:

$$(A+B+C+D+D.1)-(E+E.1+F+G+H+I+J+K)$$

(3) The definition "undepreciated capital cost" in subsection 13(21) of the Act is amended by adding the following after the description of D:

D.1 is the total of all amounts each of which is an amount paid by the taxpayer before that time as or on account of an existing or proposed countervailing or anti-dumping duty in respect of depreciable property of the class,

(4) The definition "undepreciated capital cost" in subsection 13(21) of the Act is amended by striking out the word "and" at the end of the description of I, by adding the word "and" at the end of the description of J and by adding the following after the description of J:

K is the total of all amounts each of which is an amount received by the taxpayer before that time in respect of a refund of an amount added to the undepreciated capital cost of depreciable property of the class because of the description of D.1;

(5) Subsection (1) applies to any disposition that occurs in a taxation year that ends after 1997.

(6) Subsection (2) applies after February 23, 1998.

(7) Subsection (3) applies to amounts that become payable after February 23, 1998.

(8) Subsection (4) applies to amounts that are received after February 23, 1998.

7. (1) The portion of subsection 16.1(1) of the Act before paragraph (a) is replaced by the following:

Leasing Properties

16.1 (1) Where a taxpayer (in this section referred to as the "lessee") leases tangible property (other than prescribed property) that would, if the lessee acquired the property, be depreciable property of the lessee, from a person resident in Canada other than a person whose taxable income is exempt from tax under this Part, or from a non-resident person who holds the lease in the course of carrying on a business through a permanent establishment in Canada, as defined by regulation, any income from which is subject to tax under this Part, who owns the property and with whom the lessee was dealing at arm's length (in this section referred to as the "lessor") for a term of more than one year, if the lessee and the lessor jointly elect in prescribed form filed with their returns of income for their respective taxation years that include the particular time when the lease began, the following rules apply for the purpose of computing the income of the lessee for the taxation year that includes the particular time and for all subsequent taxation years:

(2) Subsection (1) applies to leases entered into by a taxpayer or partnership after 3:30 p.m., Eastern Daylight Saving Time, August 18, 1998, other than such leases entered into after that time pursuant to an agreement in writing

(a) made before that time under which the taxpayer or partnership was required to enter into the lease, and

(b) in respect of which there is no agreement or other arrangement under which the obligation of the taxpayer or partnership to enter into the lease can be changed, reduced or waived if there is a change to the Act or if there is an adverse assessment under the Act,

and for the purpose of this subsection, a lease in respect of which a material change has been agreed to by the parties to the lease, effective at any particular time that is after 3:30 p.m., Eastern Daylight Saving Time, August 18, 1998, is deemed to have been entered into at that particular time.

8. (1) Section 17 of the Act is replaced by the following:

Amount owing by
non-resident

17. (1) Where, at any time in a taxation year of a corporation resident in Canada, a non-resident person owes an amount to the corporation, that amount has been or remains outstanding for more than a year and the total determined under paragraph (b) for the year is less than the amount of interest that would be included in computing the corporation's income for the year in respect of the amount owing if that interest were computed at a reasonable rate for the period in the year during which the amount was owing, the corporation shall include an amount in computing its income for the year equal to the amount, if any, by which

(a) the amount of interest that would be included in computing the corporation's income for the year in respect of the amount owing if that interest were computed at the prescribed rate for the period in the year during which the amount was owing

exceeds

(b) the total of all amounts each of which is

(i) an amount included in computing the corporation's income for the year as, on account of, in lieu of or in satisfaction of, interest in respect of the amount owing,

(ii) an amount received or receivable by the corporation from a trust that is included in computing the corporation's income for the year or a

subsequent year and that can reasonably be attributed to interest on the amount owing for the period in the year during which the amount was owing, or

(iii) an amount that is included in computing the corporation's income for the year or a subsequent year under subsection 91(1) and that can reasonably be attributed to interest on the amount owing for the period in the year during which the amount was owing.

Anti-avoidance
rule – indirect
loan

(2) For the purpose of this section and subject to subsection (3), where

(a) a non-resident person owes an amount at any time to a particular person or partnership (other than a corporation resident in Canada), and

(b) it is reasonable to conclude that the particular person or partnership entered into the transaction under which the amount became owing or the particular person or partnership permitted the amount owing to remain outstanding because

(i) a corporation resident in Canada made a loan or transfer of property, or

(ii) the particular person or partnership anticipated that a corporation resident in Canada would make a loan or transfer of property,

either directly or indirectly, in any manner whatever, to or for the benefit of any person or partnership (other than an exempt loan or transfer),

the non-resident person is deemed at that time to owe to the corporation an amount equal to the amount owing to the particular person or partnership.

Exception to
anti-avoidance
rule – indirect
loan

(3) Subsection (2) does not apply to an amount owing at any time by a non-resident person to a particular person or partnership where

(a) at that time, the non-resident person and the particular person or each member of the particular partnership, as the case may be, are controlled foreign affiliates of the corporation resident in Canada; or

(b) at that time,

(i) the non-resident person and the particular person are not related or the non-resident person and each member of the particular partnership are not related, as the case may be,

(ii) the terms or conditions made or imposed in respect of the amount owing, determined without reference to any loan or transfer of property by a corporation resident in Canada described in paragraph (2)(b) in respect of the amount owing, are such that persons dealing at arm's length would have been willing to enter into them at the time that they were entered into, and

(iii) if there were an amount of interest payable on the amount owing at that time that would be required to be included in computing the income of

a foreign affiliate of the corporation resident in Canada for a taxation year, that amount of interest would not be required to be included in computing the foreign accrual property income of the affiliate for that year.

Anti-avoidance
rule – loan
through
partnership

(4) For the purpose of this section, where a non-resident person owes an amount at any time to a partnership and subsection (2) does not deem the non-resident person to owe an amount equal to that amount to a corporation resident in Canada, the non-resident person is deemed at that time to owe to each member of the partnership, on the same terms as those that apply in respect of the amount owing to the partnership, that proportion of the amount owing to the partnership at that time that

(a) the fair market value of the member's interest in the partnership at that time

is of

(b) the fair market value of all interests in the partnership at that time.

Anti-avoidance
rule – loan
through trust

(5) For the purpose of this section, where a non-resident person owes an amount at any time to a trust and subsection (2) does not deem the non-resident person to owe an amount equal to that amount to a corporation resident in Canada,

(a) where the trust is a non-discretionary trust at that time, the non-resident person is deemed at that time to owe to each beneficiary of the trust, on the same terms as those that apply in respect of the amount owing to the trust, that proportion of the amount owing to the trust that

(i) the fair market value of the beneficiary's interest in the trust at that time

is of

(ii) the fair market value of all the beneficial interests in the trust at that time; and

(b) in any other case, the non-resident person is deemed at that time to owe to each settlor in respect of the trust, on the same terms as those that apply in respect of the amount owing to the trust, an amount equal to the amount owing to the trust.

Anti-avoidance
rule – loan to
partnership

(6) For the purpose of this section, where a particular partnership owes an amount at any time to any person or any other partnership (in this subsection referred to as the "lender"), each member of the particular partnership is deemed to owe at that time to the lender, on the same terms as those that apply in respect of the amount owing by the particular partnership to the lender, that proportion of the amount owing to the lender that

(a) the fair market value of the member's interest in the particular partnership at that time

is of

(b) the fair market value of all interests in the particular partnership at that time.

Exception

(7) Subsection (1) does not apply in respect of an amount owing to a corporation resident in Canada by a non-resident person if a tax has been paid under Part XIII on the amount owing, except that, for the purpose of this subsection, tax under Part XIII is deemed not to have been paid on that portion of the amount owing in respect of which an amount was repaid or applied under subsection 227(6.1).

Exception

(8) Subsection (1) does not apply to a corporation resident in Canada for a taxation year of the corporation in respect of an amount owing to the corporation by a non-resident person if the non-resident person is a controlled foreign affiliate of the corporation throughout the period in the year during which the amount is owing and it is established that the amount owing

(a) arose as a loan or advance of money to the affiliate that the affiliate has used, throughout the period that began when the loan or advance was made and that ended at the earlier of the end of the year and the time at which the amount was repaid,

(i) for the purpose of earning

(A) income from an active business, as defined in subsection 95(1), of the affiliate, or

(B) income that was included in computing the income from an active business of the affiliate under subsection 95(2), or

(ii) for the purpose of making a loan or advance to another controlled foreign affiliate of the corporation where, if interest became payable on the loan or advance at any time in the period and the affiliate was required to include the interest in computing its income for a taxation year, that interest would not be required to be included in computing the affiliate's foreign accrual property income for that year; or

(b) arose in the course of an active business, as defined in subsection 95(1), carried on by the affiliate throughout the period that began when the amount owing arose and that ended at the earlier of the end of the year and the time at which the amount was repaid.

Exception

(9) Subsection (1) does not apply to a corporation resident in Canada for a taxation year of the corporation in respect of an amount owing to the corporation by a non-resident person if

(a) the corporation is not related to the non-resident person throughout the period in the year during which the amount owing is outstanding;

(b) the amount owing arose in respect of goods sold or services provided to the non-resident person by the corporation in the ordinary course of the business carried on by the corporation; and

(c) the terms and conditions in respect of the amount owing are such that persons dealing at arm's length would have been willing to enter into them at the time that they were entered into.

Determination of
whether related
and controlled
foreign affiliate
status

(10) For the purpose of this section, in determining whether persons are related to each other and whether a non-resident corporation is a controlled foreign affiliate of a corporation resident in Canada at any time,

(a) each member of a partnership is deemed to own that proportion of the number of shares of a class of the capital stock of a corporation owned by the partnership at that time that

(i) the fair market value of the member's interest in the partnership at that time

is of

(ii) the fair market value of all interests in the partnership at that time;
and

(b) each beneficiary of a non-discretionary trust is deemed to own that proportion of the number of shares of a class of the capital stock of a corporation owned by the trust at that time that

(i) the fair market value of the beneficiary's interest in the trust at that time

is of

(ii) the fair market value of all the beneficial interests in the trust at that time.

Determination of
whether related

(11) For the purpose of this section, in determining whether persons are related to each other at any time, each settlor in respect of a trust, other than a non-discretionary trust, is deemed to own the shares of a class of the capital stock of a corporation owned by the trust at that time.

Determination of
controlled foreign
affiliate status

(12) For the purpose of this section, in determining whether a non-resident person is a controlled foreign affiliate of a corporation resident in Canada at any time, each settlor in respect of a trust, other than a non-discretionary trust, is deemed to own that proportion of the number of shares of a class of the capital stock of a corporation owned by the trust at that time that one is of the number of settlors in respect of the trust at that time.

Extended
definition of
controlled foreign
affiliate

(13) For the purpose of this section, where, at any time, two corporations resident in Canada are related (otherwise than because of a right referred to in paragraph 251(5)(b)), any corporation that is a controlled foreign affiliate of one of the corporations at that time is deemed to be a controlled foreign affiliate of the other corporation at that time.

Anti-avoidance
rule – where
rights or shares
issued, acquired
or disposed of to
avoid tax

(14) For the purpose of this section,

(a) where any person or partnership has a right under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, shares of the capital stock of a corporation and it can reasonably be considered that the principal purpose for the existence of the right is to avoid or reduce the amount of income that subsection (1) would otherwise require any corporation to include in computing its income for any taxation year, those shares are deemed to be owned by that person or partnership; and

(b) where any person or partnership acquires or disposes of shares of the capital stock of a corporation, either directly or indirectly, and it can reasonably be considered that the principal purpose for the acquisition or disposition of the shares is to avoid or reduce the amount of income that subsection (1) would otherwise require any corporation to include in computing its income for any taxation year, those shares are deemed not to have been acquired or disposed of, as the case may be, and where the shares were unissued by the corporation immediately before the acquisition, those shares are deemed not to have been issued.

Definitions

(15) The definitions in this subsection apply in this section.

"controlled
foreign affiliate"
« *société
étrangère affiliée
contrôlée* »

"controlled foreign affiliate" has the meaning that would be assigned by the definition "controlled foreign affiliate" in subsection 95(1) if paragraphs (d) and (e) of that definition read as follows:

(d) one or more persons resident in Canada with whom the taxpayer does not deal at arm's length, or

(e) the taxpayer and one or more persons resident in Canada with whom the taxpayer does not deal at arm's length.

"exempt loan or
transfer"

« prêt ou
transfert de biens
exclu »

"exempt loan or transfer" means a loan or transfer of property made by a corporation to a person or a partnership where

(a) at the time of the loan or transfer, the corporation was not related to the person or to any member of the partnership, as the case may be;

(b) the loan or transfer of property was not part of a series of transactions or events at the end of which the corporation was related to the person or to any member of the partnership, as the case may be; and

(c) the terms and conditions of the loan or transfer (determined without reference to any other loan or transfer of property to either a person related to the corporation or a partnership any member of which was related to the corporation) are such that persons dealing at arm's length would have been willing to enter into them at the time that they were entered into.

"non-discretionary
trust"
« *fiducie non
discrétionnaire* »

"non-discretionary trust", at any time, means a trust in which all interests were vested indefeasibly at the beginning of the trust's taxation year that includes that time.

"settlor"
« *auteur* »

"settlor" in respect of a trust at any time means any person or partnership that has made a loan or transfer of property, either directly or indirectly, in any manner whatever, to or for the benefit of the trust at or before that time, other than, where the person or partnership deals at arm's length with the trust at that time,

(a) a loan made by the person or partnership to the trust at a reasonable rate of interest; or

(b) a transfer made by the person or partnership to the trust for fair market value consideration.

(2) Subsection (1) applies to taxation years that begin after February 23, 1998 except that subsections 17(2) and (3) of the Act, as enacted by subsection (1), do not apply to taxation years that begin before 2000.

9. (1) Subsection 20(1) of the Act is amended by striking out the word "and" at the end of paragraph (tt), by adding the word "and" at the end of paragraph (uu) and by adding the following after paragraph (uu):

Countervailing or
anti-dumping duty

(vv) an amount paid in the year by the taxpayer as or on account of an existing or proposed countervailing or anti-dumping duty in respect of property (other than depreciable property).

(2) Section 20 of the Act is amended by adding the following after subsection (12):

Foreign tax where
no economic profit

(12.1) In computing a taxpayer's income for a taxation year from a business, there may be deducted the amount that the taxpayer claims not exceeding the lesser of

(a) the amount of foreign tax (within the meaning assigned by subsection 126(4.1)) that

(i) is in respect of a property used in the business for a period of ownership by the taxpayer or in respect of a related transaction (as defined in subsection 126(7)),

(ii) is paid by the taxpayer for the year,

(iii) is, because of subsection 126(4.1), not included in computing the taxpayer's business-income tax or non-business-income tax, and

(iv) where the taxpayer is a corporation, is not an amount that can reasonably be regarded as having been paid in respect of income from a share of the capital stock of a foreign affiliate of the taxpayer, and

(b) the portion of the taxpayer's income for the year from the business that is attributable to the property for the period or to a related transaction (as defined in subsection 126(7)).

(3) Subsection (1) applies to amounts that become payable after February 23, 1998.

(4) Subsection (2) applies to the 1998 and subsequent taxation years.

10. (1) The Act is amended by adding the following after section 20:

PHSP premiums

20.01 (1) Notwithstanding paragraphs 18(1)(a) and (h) and subject to subsection (2), there may be deducted in computing an individual's income for a taxation year from a business carried on by the individual and in which the individual is actively engaged on a regular and continuous basis, directly or as a member of a partnership, an amount payable by the individual or partnership in respect of the year as a premium, contribution or other consideration under a private health services plan in respect of the individual, the individual's spouse or any person who is a member of the individual's household if

(a) in the year or in the preceding taxation year

(i) the total of all amounts each of which is the individual's income from such a business for a fiscal period that ends in the year exceeds 50% of the individual's income for the year, or

(ii) the individual's income for the year does not exceed the total of \$10,000 and the total referred to in subparagraph (i) in respect of the individual for the year,

on the assumption that the individual's income from each business is computed without reference to this subsection and the individual's income is computed without reference to this subsection and subdivision e; and

(b) the amount is payable under a contract between the individual or partnership and

(i) a person licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada an insurance business or the business of offering to the public its services as trustee,

(ii) a person or partnership engaged in the business of offering to the public its services as an administrator of private health services plans, or

(iii) a person the taxable income of which is exempt under section 149 and that is a business or professional organization of which the individual is a member or a trade union of which the individual or a majority of the individual's employees are members.

Limit

(2) For the purpose of calculating the amount deductible under subsection (1) in computing an individual's income for a taxation year from a particular business,

(a) no amount may be deducted to the extent that

(i) it is deducted under this section in computing another individual's income for any taxation year, or

(ii) it is included in calculating a deduction under section 118.2 in computing an individual's tax payable under this Part for any taxation year;

(b) where an amount payable under a private health services plan relates to a period in the year throughout which

(i) each of one or more persons

(A) is employed on a full-time basis (other than on a temporary or seasonal basis) in the particular business or in another business carried on by

(I) the individual (otherwise than as a member of a partnership),

(II) a partnership of which the individual is a majority interest partner, or

(III) a corporation affiliated with the individual, and

(B) has accumulated not less than three months of service in that employment since the person last became so employed, and

(ii) the total number of persons employed in a business described in clause (i)(A), with whom the individual deals at arm's length and to whom coverage is extended under the plan, is not less than 50% of the total number of persons each of whom is a person

(A) who carries on the particular business or is employed in a business described in clause (i)(A), and

(B) to whom coverage is extended under the plan,

the amount so deductible in relation to the period shall not exceed the individual's cost of equivalent coverage under the plan in respect of each employed person who deals at arm's length with the individual and who is described in subparagraph (i) in relation to the period;

(c) subject to paragraph (d), where an amount payable under a private health services plan relates to a particular period in the year, other than a period described in paragraph (b), the amount so deductible in relation to the particular period shall not exceed the amount determined by the formula

$$(A/365) \times (B + C)$$

where

A is the number of days in the year that are included in the particular period,

B is the product obtained when \$1,500 is multiplied by the number of persons each of whom is covered under the plan, and

(i) is the individual or the individual's spouse, or

(ii) is a member of the individual's household and has attained the age of 18 years before the beginning of the particular period, and

C is the product obtained when \$750 is multiplied by the number of members of the individual's household who, but for the fact that they have not attained the age of 18 years before the particular period began, would be included in computing the product under the description of B; and

(d) where an amount payable under a private health services plan relates to a particular period in the year (other than a period described in paragraph (b)) and one or more persons with whom the individual deals at arm's length are described in subparagraph (b)(i) in relation to the particular period, the amount so deductible in relation to the particular period shall not exceed the lesser of the amount determined under the formula set out in paragraph (c) and the individual's cost of equivalent coverage in respect of any such person in relation to the particular period.

Equivalent
coverage

(3) For the purpose of subsection (2), an amount payable in respect of an individual under a private health services plan in relation to a period does not exceed the individual's cost of equivalent coverage under the plan in respect of another person in relation to the period to the extent that, in relation to the period, the amount does not exceed the product obtained when

(a) the amount that would be the individual's cost of coverage under the plan if the benefits and coverage in respect of the individual, the individual's spouse and the members of the individual's household were identical to the benefits and coverage made available in respect of the other person, the other person's spouse and the members of the other person's household

is multiplied by

(b) the percentage of the cost of coverage under the plan in respect of the other person that is payable by the individual or a partnership of which the individual is a member.

(2) Subsection (1) applies to amounts that become payable after 1997.

11. (1) Subsection 37(1) of the Act is amended by striking out the word "and" at the end of paragraph (c) and by adding the following after paragraph (c.1):

(c.2) all amounts added because of subsection 127(27),(29) or (34) to the taxpayer's tax otherwise payable under this Part for any preceding taxation year, and

(c.3) in the case of a partnership, all amounts each of which is an excess referred to in subsection 127(30) in respect of the partnership for any preceding fiscal period,

(2) Subsection (1) applies to the 1998 and subsequent taxation years.

12. (1) Subsection 44(5) of the Act is amended by striking out the word "and" at the end of paragraph (b) and by replacing paragraph (c) with the following:

(c) where the former property was a taxable Canadian property of the taxpayer, the particular capital property is a taxable Canadian property of the taxpayer; and

(d) where the former property was a taxable Canadian property (other than treaty-protected property) of the taxpayer, the particular capital property is a taxable Canadian property (other than treaty-protected property) of the taxpayer.

(2) Subsection (1) applies to dispositions that occur in taxation years that end after 1997.

13. (1) Subsection 52(8) of the Act is replaced by the following:

Cost of shares of
immigrant
corporation

(8) Notwithstanding any other provision of this Act, where at any time a corporation becomes resident in Canada, the cost to any shareholder who is not at that time resident in Canada of any share of the corporation's capital stock, other than a share that was taxable Canadian property immediately before that time, is deemed to be equal to the fair market value of the share at that time.

(2) Subsection (1) applies in respect of corporations that become resident in Canada after February 23, 1998.

14. (1) Subsection 53(1) of the Act is amended by adding the following after paragraph (b):

(b.1) where the property is a share of the capital stock of a corporation, the amount of any dividend deemed by paragraph 128.1(1)(c.2) to have been received in respect of the share by the taxpayer before that time and while the taxpayer was resident in Canada;

(2) Paragraph 53(1)(e) of the Act is amended by striking out the word "and" at the end of subparagraph (xi), by adding the word "and" at the end of subparagraph (xii) and by adding the following after subparagraph (xii):

(xiii) any amount required by subsection 127(30) to be added to the taxpayer's tax otherwise payable under this Part for a taxation year that ended before that time;

(3) The portion of paragraph 53(1)(h) of the Act after subparagraph (ii) is replaced by the following:

to the extent that the amount was, because of subsection 18(2),

(iii) not deductible in computing the taxpayer's income from the land or from a business for any taxation year beginning before that time, or

(iv) not deductible in computing the income of the other taxpayer and was not included in or added to the cost to the other taxpayer of any property otherwise than because of subparagraph (d.3) or subparagraph (e)(xi);

(4) Paragraph 53(1)(j) of the Act is replaced by the following:

(j) if the property is a share or unit and, in respect of its acquisition by the taxpayer, a benefit was deemed by section 7 to have been received in any taxation year that ends after 1971 and begins before that time by the taxpayer or by a person that did not deal at arm's length with the taxpayer, the amount of the benefit so deemed to have been received;

(5) Paragraph 53(2)(c) of the Act is amended by striking out the word "and" at the end of subparagraph (x), by adding the word "and" at the end of subparagraph (xi) and by adding the following after subparagraph (xi):

(xii) any amount payable by the partnership, to the extent that the amount is deductible under subsection 20.01(1) in computing the taxpayer's income for a taxation year that began before that time;

(6) Paragraph 53(2)(t) of the Act is replaced by the following:

(t) if the property is a right to acquire shares or units under an agreement, any amount required by paragraph 164(6.1)(b) to be deducted in computing the adjusted cost base to the taxpayer of the right;

(7) Subsections (1) and (3) apply after February 23, 1998.

(8) Subsection (2) applies to the 1998 and subsequent taxation years.

(9) Subsection (4) applies in computing the adjusted cost base of a share acquired after 1984 and of a unit acquired after February 1998.

(10) Subsection (5) applies after 1997.

(11) Subsection (6) applies after February 1998.

15. (1) Subsection 56(1) of the Act is amended by adding the following after paragraph (h.1):

Lifelong learning
plan

(h.2) amounts required by section 146.02 to be included in computing the taxpayer's income for the year;

(2) Subsection (1) applies to the 1999 and subsequent taxation years.

16. (1) Subparagraph 60(v)(i) of the Act is replaced by the following:

(i) the amount, if any, by which

(A) the total of all amounts each of which is a contribution made in the year, or within 60 days after the end of the year, by the taxpayer to the account of the taxpayer, or of the taxpayer's spouse, under a prescribed provincial pension plan

exceeds

(B) the portion of the total described in clause (A) that was deducted in computing the taxpayer's income for the preceding taxation year, **(2) Section 60 of the Act is amended by striking out the word "and" at the end of paragraph (v.1), by adding the word "and" at the end of paragraph (w) and by adding the following after paragraph (w):**

CESG repayment

(x) the total of all amounts each of which is an amount paid by the taxpayer in the year as a repayment under Part III.1 of the *Department of Human Resources Development Act* of an amount included because of subsection 146.1(7) in computing the taxpayer's income for the year or a preceding taxation year.

(3) Subsections (1) and (2) apply to the 1998 and subsequent taxation years.

17. (1) Subsections 62(1) and (2) of the Act are replaced by the following:

Moving expenses

62. (1) There may be deducted in computing a taxpayer's income for a taxation year amounts paid by the taxpayer as or on account of moving expenses incurred in respect of an eligible relocation, to the extent that

(a) they were not paid on the taxpayer's behalf in respect of, in the course of or because of, the taxpayer's office or employment;

(b) they were not deductible because of this section in computing the taxpayer's income for the preceding taxation year;

(c) the total of those amounts does not exceed

(i) in any case described in subparagraph (a)(i) of the definition "eligible relocation" in subsection 248(1), the taxpayer's income for the year from the taxpayer's employment at a new work location or from carrying on the business at the new work location, as the case may be, and

(ii) in any case described in subparagraph (a)(ii) of the definition "eligible relocation" in subsection 248(1), the total of amounts included in computing the taxpayer's income for the year because of paragraphs 56(1)(n) and (o); and

(d) all reimbursements and allowances received by the taxpayer in respect of those expenses are included in computing the taxpayer's income.

Moving expenses of students

(2) There may be deducted in computing a taxpayer's income for a taxation year the amount, if any, that the taxpayer would be entitled to deduct under subsection (1) if the definition "eligible relocation" in subsection 248(1) were read without reference to subparagraph (a)(i) of that definition and if the word "both" in paragraph (b) of that definition were read as "either or both".

(2) Subsection 62(3) of the Act is amended by striking out the word "and" at the end of paragraph (e) and by adding the following after paragraph (f):

(g) interest, property taxes, insurance premiums and the cost of heating and utilities in respect of the old residence, to the extent of the lesser of \$5,000 and the total of such expenses of the taxpayer for the period

(i) throughout which the old residence is neither ordinarily occupied by the taxpayer or by any other person who ordinarily resided with the taxpayer at the old residence immediately before the move nor rented by the taxpayer to any other person, and

(ii) in which reasonable efforts are made to sell the old residence, and

(h) the cost of revising legal documents to reflect the address of the taxpayer's new residence, of replacing drivers' licenses and non-commercial vehicle permits (excluding any cost for vehicle insurance) and of connecting or disconnecting utilities,

(3) Subsection (1) applies after 1997.

(4) Subsection (2) applies to expenses incurred after 1997.

18. (1) The portion of clause 63(1)(e)(ii)(A) of the Act before subclause (I) is replaced by the following:

(A) the product obtained when \$7,000 is multiplied by the number of eligible children of the taxpayer for the year each of whom

(2) Clause 63(1)(e)(ii)(B) of the Act is replaced by the following:

(B) the product obtained when \$4,000 is multiplied by the number of eligible children of the taxpayer for the year (other than children referred to in clause (A))

(3) Paragraph 63(2)(b) of the Act is replaced by the following:

(b) the amount determined by the formula

$$(A + B) \times C$$

where

A is the product obtained when \$175 is multiplied by the number of eligible children of the taxpayer for the year each of whom

(i) is under 7 years of age at the end of the year, or

(ii) is a person in respect of whom an amount may be deducted under section 118.3 in computing a taxpayer's tax payable under this Part for the year,

B is the product obtained when \$100 is multiplied by the number of the taxpayer's eligible children for the year (other than children referred to in the description of A), and

C is the total of

(i) the number of weeks in the year during which the child care expenses were incurred and throughout which the supporting person was

(A) a student in attendance at a designated educational institution or a secondary school and enrolled in a program of the institution or school of not less than 3 consecutive weeks duration that provides that each student in the program spend not less than 10 hours per week on courses or work in the program,

(B) a person certified by a medical doctor to be a person who

(I) was incapable of caring for children because of the person's mental or physical infirmity and confinement throughout a period of not less than 2 weeks in the year to bed, to a wheelchair or as a patient in a hospital, an asylum or other similar institution, or

(II) was in the year, and is likely to be for a long, continuous and indefinite period, incapable of caring for children, because of the person's mental or physical infirmity,

(C) a person confined to a prison or similar institution throughout a period of not less than 2 weeks in the year, or

(D) a person who, because of a breakdown of the person's marriage, was living separate and apart from the taxpayer at the end of the year and for a period of at least 90 days that began in the year, and

(ii) the number of months in the year (other than a month that includes all or part of a week included in the number of weeks referred to in subparagraph (i)), each of which is a month during which the child care expenses were incurred and the supporting person was a student in attendance at a designated educational institution or a secondary school and enrolled in a program of the institution or school that is not less than 3 consecutive weeks duration and that provides that each student in the program spend not less than 12 hours in the month on courses in the program.

(4) Paragraph 63(2.2)(a) of the Act is replaced by the following:

(a) the taxpayer is, at any time in the year, a student in attendance at a designated educational institution or a secondary school and enrolled in a program of the institution or school of not less than 3 consecutive weeks duration that provides that each student in the program spend not less than

(i) 10 hours per week on courses or work in the program, or

(ii) 12 hours per month on courses in the program;

(5) The portion of the description of A in paragraph 63(2.3)(c) of the Act before subparagraph (i) is replaced by the following:

A is the product obtained when \$175 is multiplied by the number of eligible children of the taxpayer for the year each of whom is

(6) The description of B in paragraph 63(2.3)(c) of the Act is replaced by the following:

B is the product obtained when \$100 is multiplied by the number of the taxpayer's eligible children for the year, (other than children referred to in the description of A), and

(7) Subparagraphs (i) and (ii) of the description of C in paragraph 63(2.3)(c) of the Act are replaced by the following:

(i) if there is a supporting person of an eligible child of the taxpayer for the year,

(A) the number of weeks, in the year, in which both the taxpayer and the supporting person were students who would be described in paragraph (2.2)(a) if that paragraph were read without reference to subparagraph (ii), and

(B) the number of months in the year (other than a month that includes all or part of a week included in the number of weeks referred to in clause (A)), in which both the taxpayer and the supporting person were students described in paragraph (2.2)(a), and

(ii) in any other case,

(A) the number of weeks, in the year, in which the taxpayer was a student who would be described in paragraph (2.2)(a) if that paragraph were read without reference to subparagraph (ii), and

(B) the number of months in the year (other than a month that includes all or part of a week included in the number of weeks referred to in clause (A)), in which the taxpayer was a student described in paragraph (2.2)(a),

(8) Subparagraph (a)(v) of the definition "child care expense" in subsection 63(3) of the Act is replaced by the following:

(v) to attend a designated educational institution or a secondary school, where the taxpayer is enrolled in a program of the institution or school of not less than three consecutive weeks duration that provides that each student in the program spend not less than

(A) 10 hours per week on courses or work in the program, or

(B) 12 hours per month on courses in the program, and

(9) Subparagraphs (c)(i) and (ii) of the definition "child care expense" in subsection 63(3) of the Act are replaced by the following:

(i) in the case of a child of the taxpayer who

(A) is under 7 years of age at the end of the year, or

(B) is a person in respect of whom an amount may be deducted under section 118.3 in computing a taxpayer's tax payable under this Part for the year,

\$175, and

(ii) in any other case, \$100

(10) Paragraph (b) of the definition "eligible child" in subsection 63(3) of the Act is replaced by the following:

(b) a child dependent on the taxpayer or the taxpayer's spouse for support and whose income for the year does not exceed the total of \$500 and the amount used under paragraph (c) of the description of B in subsection 118(1) for the year

(11) Subsections (1) to (10) apply to the 1998 and subsequent taxation years.

19. (1) The portion of section 64.1 of the Act before paragraph (b) is replaced by the following:

Individuals absent
from Canada

64.1 In applying sections 63 and 64 in respect of a taxpayer who is, throughout all or part of a taxation year, absent from but resident in Canada,

the following rules apply for the year or that part of the year, as the case may be:

(a) the definition "child care expense" in subsection 63(3), and section 64, shall be read without reference to the words "in Canada";

(2) Subsection (1) applies after 1997.

20. (1) Paragraphs 67.1(2)(d) and (e) of the Act are replaced by the following:

(d) is required to be included in computing any taxpayer's income because of the application of section 6 in respect of food or beverages consumed or entertainment enjoyed by the taxpayer or a person with whom the taxpayer does not deal at arm's length, or would be so required but for subparagraph 6(6)(a)(ii);

(e) is an amount that

(i) is not paid or payable in respect of a conference, convention, seminar or similar event,

(ii) would, but for subparagraph 6(6)(a)(i), be required to be included in computing any taxpayer's income for a taxation year because of the application of section 6 in respect of food or beverages consumed or entertainment enjoyed by the taxpayer or a person with whom the taxpayer does not deal at arm's length, and

(iii) is paid or payable in respect of the taxpayer's duties performed at a work site in Canada that is

(A) outside any urban area, as defined by the last Census Dictionary published by Statistics Canada before the year, that has a population of at least 40,000 individuals as determined in the last census published by Statistics Canada before the year, and

(B) at least 30 kilometres from the nearest point on the boundary of the nearest such urban area; or

(f) is in respect of one of six or fewer special events held in a calendar year at which the food, beverages or entertainment is generally available to all individuals employed by the person at a particular place of business of the person and consumed or enjoyed by those individuals.

(2) Paragraph 67.1(2)(d) of the Act, as enacted by subsection (1), applies to the 1987 and subsequent taxation years.

(3) Paragraphs 67.1(2)(e) and (f) of the Act, as enacted by subsection (1), apply to expenses incurred after February 23, 1998.

21. (1) The definition "excluded property" in subsection 80(1) of the Act is replaced by the following:

"excluded
property"
« *bien exclu* »

"excluded property" means property of a non-resident debtor that is treaty-protected property or that is not taxable Canadian property;

(2) Subsection (1) applies to the 1998 and subsequent taxation years.

22. (1) Section 80.4 of the Act is amended by adding the following after subsection (1):

Interpretation

(1.1) A loan or debt is deemed to have been received or incurred because of an individual's office or employment, or because of services performed by a corporation that carries on a personal services business, as the case may be, if it is reasonable to conclude that, but for an individual's previous, current or intended office or employment, or the services performed or to be performed by the corporation,

(a) the terms of the loan or debt would have been different; or

(b) the loan would not have been received or the debt would not have been incurred.

(2) Subsection (1) applies to loans received and debts incurred after February 23, 1998 except that, in its application to a loan received or a debt incurred after February 23, 1998 in respect of an eligible relocation of an individual in connection with which the individual begins employment at the new work location before October 1998, subsection (1) does not apply to taxation years that end before 2001.

23. (1) Subsection 84(7) of the Act is replaced by the following:

When dividend
payable

(7) A dividend that is deemed by this subsection or section 84.1, 128.1 or 212.1 to have been paid at a particular time is deemed, for the purposes of this subdivision and sections 131 and 133, to have become payable at that time.

(2) Subsection (1) applies after February 23, 1998.

24. (1) Subsection 87(8) of the Act is replaced by the following:

Foreign Merger

(8) Where there has been a foreign merger in which a taxpayer's shares or options to acquire shares of the capital stock of a corporation that was a predecessor foreign corporation immediately before the merger were exchanged for or became shares or options to acquire shares of the capital stock of the new foreign corporation or the foreign parent corporation, unless the taxpayer elects in the taxpayer's return of income under this Part for the taxation year in which the foreign merger took place not to have this subsection apply, subsections (4) and (5) apply to the taxpayer as if the references in those subsections to

(a) "amalgamation" were read as "foreign merger";

(b) "predecessor corporation" were read as "predecessor foreign corporation";
and

(c) "new corporation" were read as "new foreign corporation or the foreign parent corporation".

(2) Paragraph 87(8.1)(c) of the Act is replaced by the following:

(c) all or substantially all of the shares of the capital stock of the predecessor foreign corporations (except any shares or options owned by any

predecessor foreign corporation) are exchanged for or become, because of the merger or combination,

(i) shares of the capital stock of the new foreign corporation, or

(ii) if, immediately after the merger, the new foreign corporation was controlled by another foreign corporation (in this section referred to as the "foreign parent corporation") that was resident in the same country as the new foreign corporation, shares of the capital stock of the foreign parent corporation,

(3) The portion of subsection 87(10) of the Act after paragraph (f) is replaced by the following:

the new share is deemed, for the purposes of subsections 115(1) and 116(6) and the definitions "qualified investment" in subsections 146(1), 146.1(1) and 146.3(1) and in section 204, to be listed on the exchange until the earliest time at which it is so redeemed, acquired or cancelled.

(4) Subsections (1) and (2) apply to a taxpayer in respect of a merger or combination of foreign corporations

(a) that occurs after February 24, 1998, or

(b) that occurred

(i) before February 25, 1998 and in a taxation year of the taxpayer for which the taxpayer's normal reassessment period, as defined in subsection 152(3.1) of the Act, has not ended before 1999, or

(ii) after 1994 and before February 25, 1998 and in a taxation year of the taxpayer in which the taxpayer was exempt from tax under section 149 of the Act,

unless the taxpayer elects by notifying the Minister of National Revenue in writing, before the end of the sixth month that ends after the month in which this Act is assented to, that subsections (1) and (2) not apply to the taxpayer in respect of the merger or combination.

(5) Subsection (3) applies after 1997.

25. (1) Paragraph 95(2)(d) of the Act is replaced by the following:

(d) where there has been a foreign merger in which the shares owned by a foreign affiliate of a taxpayer of the capital stock of a corporation that was a predecessor foreign corporation immediately before the merger were exchanged for or became shares of the capital stock of the new foreign corporation or the foreign parent corporation, subsection 87(4) applies to the foreign affiliate as if the references in that subsection to

(i) "amalgamation" were read as "foreign merger",

(ii) "predecessor corporation" were read as "predecessor foreign corporation",

(iii) "new corporation" were read as "new foreign corporation or the foreign parent corporation", and

(iv) "adjusted cost base" were read as "relevant cost base";

(2) Subsection 95(4.1) of the Act is replaced by the following:

Application of s.
87(8.1)

(4.1) In this section, the expressions "foreign merger", "predecessor foreign corporation", "new foreign corporation" and "foreign parent corporation" have the meanings assigned by subsection 87(8.1).

(3) Subsections (1) and (2) apply to a taxpayer in respect of a merger or combination of foreign corporations

(a) that occurs after February 24, 1998, or

(b) that occurred

(i) before February 25, 1998 and in a taxation year of the taxpayer for which the taxpayer's normal reassessment period, as defined in subsection 152(3.1) of the Act, has not ended before 1999, or

(ii) after 1994 and before February 25, 1998 and in a taxation year of the taxpayer in which the taxpayer was exempt from tax under section 149 of the Act,

unless the taxpayer elects by notifying the Minister of National Revenue in writing, before the end of the sixth month that ends after the month in which this Act is assented to, that subsections (1) and (2) not apply to the taxpayer in respect of the merger or combination.

26. (1) Paragraph 110(1)(d) of the Act is replaced by the following:

Employee options

(d) an amount equal to 1/4 of the amount of the benefit deemed by subsection 7(1) to have been received by the taxpayer in the year in respect of a security that a particular qualifying person has agreed after February 15, 1984 to sell or issue under an agreement, or in respect of the transfer or other disposition of rights under the agreement, if

(i) the security

(A) is a prescribed share at the time of its sale or issue, as the case may be,

(B) would have been a prescribed share if it were issued or sold to the taxpayer at the time the taxpayer disposed of rights under the agreement,

(C) would have been a unit of a mutual fund trust at the time of its sale or issue if those units issued by the trust that were not identical to the security had not been issued, or

(D) would have been a unit of a mutual fund trust if

(I) it were issued or sold to the taxpayer at the time the taxpayer disposed of rights under the agreement, and

(II) those units issued by the trust that were not identical to the security had not been issued,

(ii) where rights under the agreement were not acquired by the taxpayer as a result of the disposition of rights to which subsection 7(1.4) applied,

(A) the amount payable by the taxpayer to acquire the security under the agreement (determined without reference to any change in the value of a currency of a country other than Canada relative to Canadian currency during the period between the time the agreement was made and the time the security was acquired) is not less than the amount by which

(I) the fair market value of the security at the time the agreement was made

exceeds

(II) the amount, if any, paid by the taxpayer to acquire the right to acquire the security, and

(B) immediately after the agreement was made, the taxpayer was dealing at arm's length with the particular person and with each qualifying person with which the particular person was not dealing at arm's length, and

(iii) where rights under the agreement were acquired by the taxpayer as a result of one or more dispositions to which subsection 7(1.4) applied,

(A) the amount payable by the taxpayer, to acquire the old security under the exchanged option in respect of the first of those dispositions (determined without reference to any change in the value of a currency of a country other than Canada relative to Canadian currency during the period between the time the agreement was made and the time the security was acquired), was not less than the amount by which

(I) the fair market value of the old security at the time the agreement in respect of the exchanged option was made

exceeds

(II) the amount, if any, paid by the taxpayer to acquire the right to acquire the old security, and

(B) immediately after each of those dispositions, the taxpayer was dealing at arm's length with

(I) the qualifying person with whom the taxpayer entered into an agreement to receive consideration in respect of the disposition, and

(II) each qualifying person with which the qualifying person described in subclause (I) did not deal at arm's length;

(2) Subsection (1) applies to the 1998 and subsequent taxation years.

27. (1) The portion of subsection 110.7(4) of the Act before paragraph (a) is replaced by the following:

Board and lodging
allowances, etc.

(4) The amount determined under subparagraph (1)(b)(ii) for a particular area for a taxpayer for a taxation year shall not exceed the amount by which the amount otherwise determined under that subparagraph for the particular area for the year exceeds the value of, or an allowance in respect of expenses incurred by the taxpayer for, the taxpayer's board and lodging in the particular area (other than at a work site described in paragraph 67.1(2)(e)) that

(2) Subsection (1) applies to the 1998 and subsequent taxation years.

28. (1) The portion of subsection 111(9) of the Act after paragraph (b) is replaced by the following:

the taxpayer had no income other than income described in any of subparagraphs 115(1)(a)(i) to (vi), the taxpayer's only taxable capital gains, allowable capital losses and allowable business investment losses were from dispositions of taxable Canadian property (other than treaty-protected property) and the taxpayer's only other losses were losses from the duties of an office or employment performed by the taxpayer in Canada and businesses (other than treaty-protected businesses) carried on by the taxpayer in Canada.

(2) Subsection (1) applies for the purpose of computing taxable income and taxable income earned in Canada for the 1998 and subsequent taxation years.

29. (1) The portion of subsection 115(1) of the Act before paragraph (a) is replaced by the following:

Non-resident's
taxable income in
Canada

115. (1) For the purposes of this Act, the taxable income earned in Canada for a taxation year of a person who at no time in the year is resident in Canada is the amount, if any, by which the amount that would be the non-resident person's income for the year under section 3 if

(2) Subsection 115(1) of the Act is amended by striking out the word "and" at the end of paragraph (b) and by replacing paragraphs (c) to (e) with the following:

(b.1) notwithstanding paragraph (b), the taxable capital gains and allowable capital losses referred to in paragraph 3(b) did not include taxable capital gains and allowable capital losses from dispositions at any time in the year of taxable Canadian property that was treaty-protected property of the non-resident at that time, and

(c) the only losses for the year referred to in paragraph 3(d) were losses from duties of an office or employment performed by the person in Canada and businesses (other than treaty-protected businesses) carried on by the person in Canada and allowable business investment losses in respect of property any gain from the disposition of which would, because of this subsection, be included in computing the person's taxable income earned in Canada,

exceeds the total of

(d) the deductions permitted by subsection 111(1) and, to the extent that they relate to amounts included in computing the amount determined under any of paragraphs (a) to (c), the deductions permitted by any of paragraphs 110(1)(d), (d.1), (d.2) and (f) and subsection 110.1(1),

(e) the deductions permitted by any of subsections 112(1) and (2) and 138(6) in respect of a dividend received by the non-resident person, to the extent that the dividend is included in computing the non-resident person's taxable income earned in Canada for the year, and

(3) Paragraph 115(2)(c) of the Act is replaced by the following:

(c) an individual

(i) who had, in any previous year, ceased to be resident in Canada,

(ii) who received, in the taxation year, salary or wages or other remuneration in respect of an office or employment that was paid to the individual directly or indirectly by a person resident in Canada, and

(iii) who was, under an agreement or a convention with one or more countries that has the force of law in Canada, entitled to an exemption from an income tax otherwise payable in any of those countries in respect of the salary or wages or other remuneration, or

(4) Subparagraphs 115(2)(f)(i) to (iii) of the Act are replaced by the following:

(i) the definition "eligible relocation" in subsection 248(1) were read without reference to subparagraph (a)(i) of that definition, and

(ii) the amounts described in subparagraph 62(1)(c)(ii) were the amounts described in subparagraph (e)(ii) of this subsection.

(5) Subsections (1) to (3) apply to the 1998 and subsequent taxation years.

(6) Subsection (4) applies after 1997.

30. (1) Paragraph 117.1(1)(b) of the Act is replaced by the following:

(b) the amounts expressed in dollars in subsection 117(2), paragraphs (b.1) to (d) of the description of B in subsection 118(1), subsections 118(2), 118.2(1) and 118.3(1) and Part I.2 in relation to tax payable under this Part or Part I.2 for a taxation year,

(2) Subsection (1) applies

(a) to the 2000 and subsequent taxation years for amounts referred to in paragraph (b.1) of the description of B in subsection 118(1) of the Act, as enacted by subsection 31(1); and

(b) to the 1999 and subsequent taxation years for amounts referred to in paragraph (c.1) of the description of B in subsection 118(1) of the Act, as enacted by subsection 31(2).

31. (1) The description of B in subsection 118(1) of the Act is amended by adding the following after paragraph (b):

Supplementary
amount

(b.1) for each individual (other than a trust), the amount, if any, by which the total of

(i) \$500, and

(ii) if an amount is deducted under paragraph (a) or (b) by the individual for the year in respect of another individual (or would be so deducted if the other individual had no income for the year), the lesser of

(A) \$500, and

(B) the amount, if any, by which

(I) the total of \$500 and the amount used under paragraph (c) for the year

exceeds

(II) the other individual's income for the year or, where the other individual is the individual's spouse and both persons are living separate and apart at the end of the year by reason of a breakdown of their marriage, the other individual's income for the year while married and not so separated

exceeds

(iii) 4% of the amount, if any, by which

(A) the individual's income for the year

exceeds

(B) the total of \$500, the amount used under paragraph (c) for the year and, if subparagraph (ii) applies for the year to the individual, the amount determined under clause (ii)(B) for the year,

(2) The description of B in subsection 118(1) of the Act is amended by adding the following after paragraph (c):

In-home care
of relative

(c.1) in the case of an individual who, at any time in the year alone or jointly with one or more persons, maintains a self-contained domestic establishment which is the ordinary place of residence of the individual and of a particular person

(i) who has attained the age of 18 years before that time,

(ii) who is

(A) the individual's child or grandchild, or

(B) resident in Canada and is the individual's parent, grandparent, brother, sister, aunt, uncle, nephew or niece, and

(iii) who is

(A) the individual's parent or grandparent and has attained the age of 65 years before that time, or

(B) dependent on the individual because of the particular person's mental or physical infirmity,

the amount determined by the formula

$$\$13,853 - D.1$$

where

D.1 is the greater of \$11,500 and the particular person's income for the year,

(3) Paragraph (e) of the description of B in subsection 118(1) of the Act is replaced by the following:

Additional
amount

(e) in the case of an individual entitled to a deduction in respect of a person because of paragraph (b) and who would also be entitled, but for paragraph (4)(c), to a deduction because of paragraph (c.1) or (d) in respect of the person, the amount by which the amount that would be determined under paragraph (c.1) or (d), as the case may be, exceeds the amount determined under paragraph (b) in respect of the person.

(4) Subsection 118(4) of the Act is amended by adding the following after paragraph (a):

(a.1) no amount may be deducted under subsection (1) because of paragraph (b) of the description of B in subsection (1) by an individual for a taxation year for a person in respect of whom an amount is deducted because of paragraph (a) of that description by another individual for the year if, throughout the year, the person and that other individual are married to each other and are not living separate and apart because of a breakdown of their marriage;

(5) Paragraphs 118(4)(c) and (e) of the Act are replaced by the following:

(c) where an individual is entitled to a deduction under subsection (1) because of paragraph (b) of the description of B in subsection (1) for a taxation year in respect of any person, no amount may be deducted because of paragraph (c.1) or (d) of that description by any individual for the year in respect of the person;

(d) where an individual is entitled to a deduction under subsection (1) because of paragraph (c.1) of the description of B in subsection (1) for a taxation year in respect of any person, the person is deemed not to be a dependant of any individual for the year for the purpose of paragraph (d) of that description; and

(e) where more than one individual is entitled to a deduction under subsection (1) because of paragraph (c.1) or (d) of the description of B in subsection (1) for a taxation year in respect of the same person,

(i) the total of all amounts so deductible for the year shall not exceed the maximum amount that would be so deductible for the year by any one of those individuals for that person if that individual were the only individual entitled to deduct an amount for the year because of that paragraph for that person, and

(ii) if the individuals cannot agree as to what portion of the amount each can so deduct, the Minister may fix the portions.

(6) Subsections (1) to (5) apply to the 1998 and subsequent taxation years except that, in its application to the 1998 taxation year, the reference to "the amount" in the portion of paragraph (b.1) of the description of B in subsection 118(1) of the Act before subparagraph (i), as enacted by subsection (1), shall be read as a reference to "50% of the amount".

32. (1) Section 118.1 of the Act is amended by adding the following after subsection (10):

Determination of
fair market value

(10.1) For the purposes of subparagraph 69(1)(b)(ii), subsection 70(5), section 110.1 and this section, where at any time the Canadian Cultural Property Export Review Board determines or redetermines an amount to be the fair market value of a property that is the subject of a gift described in paragraph 110.1(1)(a) or in the definition "total cultural gifts" in subsection (1) made by a taxpayer within the two-year period that begins at that time, the last amount so determined or redetermined within the period is deemed to be the fair market value of the property at the time the gift was made and, subject to subsection 110.1(3) and subsections (6) and (7), to be the taxpayer's proceeds of disposition of the property.

(2) Subsection (1) applies to determinations and redeterminations made after February 23, 1998.

33. For the purposes of the Act, if

(a) a taxpayer made a gift at any particular time before February 1998, and after the end of a taxation year that ended after November 15, 1997 and before 1998, that would be deductible under section 110.1 or 118.1 of the Act in computing the taxpayer's taxable income or tax payable under Part I of the Act for the year if it were made immediately before the end of the year,

(b) the gift was a gift of tangible property (other than real property) or a gift by cash, cheque, credit card or money order,

(c) the gift was not made

(i) through a payroll deduction, or

(ii) where the taxpayer died after 1997, by the taxpayer's will, and

(d) the taxpayer so elects in the taxpayer's return of income under the Act for the year or by notifying the Minister of National Revenue in writing before 1999,

the taxpayer is deemed to have made the gift and, in the case of a gift of tangible property, to have disposed of the property immediately before the end of the taxpayer's taxation year that ended before 1998 and not to have done so at the particular time.

34. (1) Paragraph (b) of the description of D in subsection 118.2(1) of the Act is replaced by the following:

(b) the total of \$500 and the amount used under paragraph (c) of the description of B in subsection 118(1) for the year.

(2) Subsection 118.2(2) of the Act is amended by adding the following after paragraph (1.7):

(1.8) for reasonable expenses (other than amounts paid to a person who was at the time of the payment the individual's spouse or a person under 18 years of age) to train the individual, or a person related to the individual, if the training relates to the mental or physical infirmity of a person who

(i) is related to the individual, and

(ii) is a member of the individual's household or is dependent on the individual for support;

(3) Paragraph 118.2(2)(g) of the Act is replaced by the following:

(g) as a premium, contribution or other consideration under a private health services plan in respect of one or more of the individual, the individual's spouse and any member of the individual's household with whom the individual is connected by blood relationship, marriage or adoption, except to the extent that the premium, contribution or consideration is deducted under subsection 20.01(1) in computing an individual's income from a business for any taxation year.

(4) Subsections (1) to (3) apply to the 1998 and subsequent taxation years.

35. (1) Paragraph 118.3(1)(a.2) of the Act is amended by striking out the word "and" at the end of subparagraph (ii) and by replacing subparagraph (iii) with the following:

(iii) an impairment with respect to an individual's ability in feeding and dressing themselves, or in walking, a medical doctor or an occupational therapist,

(iv) an impairment with respect to an individual's ability in perceiving, thinking and remembering, a medical doctor or a psychologist, and

(v) an impairment not referred to in any of subparagraphs (i) to (iv), a medical doctor

(2) Paragraph 118.3(2)(a) of the Act is replaced by the following:

(a) an individual has, in respect of a person (other than a person in respect of whom the person's spouse deducts for a taxation year an amount under section 118 or 118.8) who is resident in Canada at any time in the year and who is entitled to deduct an amount under subsection (1) for the year,

(i) claimed for the year a deduction under subsection 118(1) because of

(A) paragraph (b) of the description of B in that subsection, or

(B) paragraph (c.1) or (d) of that description where the person is the individual's parent, grandparent, child or grandchild, or

(ii) could have claimed for the year a deduction referred to in subparagraph (i) in respect of the person if

(A) the person had no income for the year and had attained the age of 18 years before the end of the year, and

(B) in the case of a deduction referred to in clause (i)(A), the individual were not married, and

(3) Subsection (1) applies to certifications made after February 24, 1998.

(4) Subsection (2) applies to the 1998 and subsequent taxation years.

36. (1) The portion of subsection 118.4(2) of the Act before paragraph (a) is replaced by the following:

Reference to
medical
practitioners,
etc.

(2) For the purposes of sections 63, 118.2, 118.3 and 118.6, a reference to an audiologist, dentist, medical doctor, medical practitioner, nurse,

occupational therapist, optometrist, pharmacist or psychologist is a reference to a person authorized to practise as such,

(2) Subsection (1) applies after February 24, 1998.

37. (1) The portion of subsection 118.6(1) of the Act before the definition "designated educational institution" is replaced by the following:

Definitions

118.6 (1) For the purposes of section 63 and this subdivision,

(2) Subsection 118.6(1) of the Act is amended by adding the following in alphabetical order:

"specified
educational
program"
« *programme de
formation
déterminé* »

"specified educational program" means a program that would be a qualifying educational program if the definition "qualifying educational program" were read without reference to the words "that provides that each student taking the program spend not less than 10 hours per week on courses or work in the program".

(3) Subsection 118.6(2) of the Act is replaced by the following:

Education credit

(2) There may be deducted in computing an individual's tax payable under this Part for a taxation year the 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) \$200 is multiplied by the number of months in the year during which the individual is enrolled in a qualifying educational program as a full-time student at a designated educational institution, and

(b) \$60 is multiplied by the number of months in the year (other than months described in paragraph (a)), each of which is a month during which the individual is enrolled at a designated educational institution in a specified educational program that provides that each student in the program spend not less than 12 hours in the month on courses in the program,

if the enrolment is proved by filing with the Minister a certificate in prescribed form issued by the designated educational institution and containing prescribed information and, in respect of a designated educational institution described in subparagraph (a)(ii) of the definition "designated educational institution" in subsection (1), the individual is enrolled in the program to obtain skills for, or improve the individual's skills in, an occupation.

(4) Subsection 118.6(3) of the Act is replaced by the following:

Disabled students

(3) In calculating the amount deductible under subsection (2) in computing an individual's tax payable under this Part for a taxation year, the reference in that subsection to "full-time student" shall be read as "student" if either

(a) an amount may be deducted under section 118.3 in respect of the individual for the year; or

(b) the individual has in the year a mental or physical impairment the effects of which on the individual have been certified in writing, to be such that the individual cannot reasonably be expected to be enrolled as a full-time student while so impaired, by a medical doctor or, where the impairment is

(i) an impairment of sight, by a medical doctor or an optometrist,

(ii) a hearing impairment, by a medical doctor or an audiologist,

(iii) an impairment with respect to the individual's ability in feeding and dressing themselves, or in walking, by a medical doctor or an occupational therapist, or

(iv) an impairment with respect to the individual's ability in perceiving, thinking and remembering, by a medical doctor or a psychologist.

(5) Subsections (1) to (3) apply to the 1998 and subsequent taxation years.

(6) Subsection (4) applies to certifications made

(a) after February 18, 1997, in the case of a hearing impairment referred to in subparagraph 118.6(3)(b)(ii) of the Act, as enacted by subsection (4); and

(b) after February 24, 1998, in any other case.

38. (1) The Act is amended by adding the following after section 118.61:

Credit for
interest on
student loan

118.62 For the purpose of computing an individual's tax payable under this Part for a taxation year, there may be deducted the amount determined by the formula

$$A \times B$$

where

A is the appropriate percentage for the year; and

B is the total of all amounts (other than any amount paid on account of or in satisfaction of a judgement) each of which is an amount of interest paid in the year (or in any of the five preceding taxation years that are after 1997, to the extent that it was not included in computing a deduction under this section for any other taxation year) by the individual or a person related to the individual on a loan made to, or other amount owing by, the individual under the *Canada Student Loans Act*, the *Canada Student Financial Assistance Act* or a law of a province governing the granting of financial assistance to students at the post-secondary school level.

(2) Subsection (1) applies to the 1998 and subsequent taxation years.

39. (1) Paragraph (a) of the description of C in section 118.8 of the Act is replaced by the following:

(a) the amount that would be the spouse's tax payable under this Part for the year if no amount were deductible under this Division (other than an amount deductible under subsection 118(1) because of paragraph (b.1) or (c) of the description of B in that subsection or under section 118.61 or 118.7)

(2) Subsection (1) applies to the 1998 and subsequent taxation years.

40. (1) Subparagraph 118.91(b)(i) of the Act is replaced by the following:

(i) such of the deductions permitted under subsection 118(3) and sections 118.1, 118.2, 118.5, 118.6, 118.62 and 118.7 as can reasonably be considered wholly applicable, and

(2) Subsection (1) applies to the 1998 and subsequent taxation years.

41. (1) Section 118.92 of the Act is replaced by the following:

Ordering of
credits

118.92 In computing an individual's tax payable under this Part, the following provisions shall be applied in the following order: subsections 118(1) and (2), section 118.7, subsection 118(3) and sections 118.3, 118.61, 118.5, 118.6, 118.9, 118.8, 118.2, 118.1, 118.62 and 121.

(2) Subsection (1) applies to the 1998 and subsequent taxation years.

42. (1) Paragraph 118.95(a) of the Act is replaced by the following:

(a) such of the deductions as the individual is entitled to under subsection 118(3) and sections 118.1, 118.2, 118.5, 118.6, 118.62 and 118.7 as can reasonably be considered wholly applicable to the taxation year, and

(2) Subsection (1) applies to the 1998 and subsequent taxation years.

43. (1) Paragraph (b) of the definition "tax otherwise payable under this Part" in subsection 120(4) of the Act is replaced by the following:

(b) the amount that, but for this section and subsection 117(6), would be the tax payable under this Part by the individual for the year if this Part were read without reference to any of sections 126, 127 and 127.4.

(2) Subsection (1) applies to the 1998 and subsequent taxation years.

44. (1) Paragraph (c) of the definition "eligible individual" in section 122.6 of the Act is replaced by the following:

(c) is resident in Canada or, where the person is the cohabiting spouse of a person who is deemed under subsection 250(1) to be resident in Canada throughout the taxation year that includes that time, was resident in Canada in any preceding taxation year,

(2) Subsection (1) applies after February 23, 1998.

45. (1) Paragraph 123.2(a) of the Act is replaced by the following:

(a) the tax payable under this Part by the corporation for the year determined without reference to this section, sections 123.3 and 125 to 126 and

subsections 127(3), (5), (27) to (31), (34) and (35) and 137(3) and as if subsection 124(1) did not contain the words "in a province"

(2) Subsection (1) applies to the 1998 and subsequent taxation years.

46. (1) The definition "assistance" in subsection 125.4(1) of the Act is replaced by the following:

"assistance"
« montant d'aide »

"assistance" means an amount, other than a prescribed amount or an amount deemed under subsection (3) to have been paid, that would be included under paragraph 12(1)(x) in computing a taxpayer's income for any taxation year if that paragraph were read without reference to subparagraphs (v) to (vii).

(2) Subsection (1) applies to amounts received after February 23, 1998.

47. (1) The portion of subparagraph 126(1)(b)(i) of the Act before clause (C) is replaced by the following:

(i) the amount, if any, by which the total of the taxpayer's qualifying incomes exceeds the total of the taxpayer's qualifying losses

(A) for the year, if the taxpayer is resident in Canada throughout the year, and

(B) for the part of the year throughout which the taxpayer is resident in Canada, if the taxpayer is non-resident at any time in the year,

from sources in that country, on the assumption that

(2) Subparagraph 126(2.1)(a)(i) of the Act is replaced by the following:

(i) the amount, if any, by which the total of the taxpayer's qualifying incomes exceeds the total of the taxpayer's qualifying losses

(A) for the year, if the taxpayer is resident in Canada throughout the year, and

(B) for the part of the year throughout which the taxpayer is resident in Canada, if the taxpayer is non-resident at any time in the year,

from businesses carried on by the taxpayer in that country

(3) Subparagraph 126(2.1)(b)(i) of the Act is replaced by the following:

(i) the amount determined under subparagraph (a)(i) in respect of the country

(4) Section 126 of the Act is amended by adding the following after subsection (4):

No economic profit

(4.1) If a taxpayer acquires a property, other than a capital property, at any time after February 23, 1998 and it is reasonable to expect at that time that the taxpayer will not realize an economic profit in respect of the property for the period that begins at that time and ends when the taxpayer next disposes of the property, the total amount of all income or profits taxes (referred to as the "foreign tax" for the purpose of subsection 20(12.1)) in respect of the property

for the period, and in respect of related transactions, paid by the taxpayer for any year to the government of any country other than Canada or to the government of a state, province or other political subdivision of such a country, is not included in computing taxpayer's business-income tax or non-business-income tax for any taxation year.

Short-term
securities
acquisitions

(4.2) If at any particular time a taxpayer disposes of a property that is a share or debt obligation and the period that began at the time the taxpayer last acquired the property and ended at the particular time is one year or less, the amount included in business-income tax or non-business-income tax paid by the taxpayer for a particular taxation year on account of all taxes (referred to in this subsection and subsections (4.3) and 161(6.1) as the "foreign tax") that are

(a) paid by the taxpayer in respect of dividends or interest in respect of the period that are included in computing the taxpayer's income from the property for any taxation year,

(b) otherwise included in business-income tax or non-business-income tax for any taxation year, and

(c) similar to the tax levied under Part XIII

shall, subject to subsection (4.3), not exceed the amount determined by the formula

$$A \times (B - C) \times D/E$$

where

A is 40%, if the foreign tax would otherwise be included in business-income tax, and 30%, if the foreign tax would otherwise be included in non-business-income tax,

B is the total of the taxpayer's proceeds from the disposition of the property at the particular time and the amount of all dividends or interest from the property in respect of the period included in computing the taxpayer's income for any taxation year,

C is the total of the cost at which the taxpayer last acquired the property and any outlays or expenses made or incurred by the taxpayer for the purpose of disposing of the property at the particular time,

D is the amount of foreign tax that would otherwise be included in computing the taxpayer's business-income tax or non-business-income tax for the particular year, and

E is the total amount of foreign tax that would otherwise be included in computing the taxpayer's business-income tax or non-business-income tax for all taxation years.

Exceptions

(4.3) Subsection (4.2) does not apply to a property of a taxpayer

(a) that is a capital property;

(b) that is a debt obligation issued to the taxpayer that has a term of one year or less and that is held by no one other than the taxpayer at any time;

(c) that was last acquired by the taxpayer before February 24, 1998; or

(d) in respect of which any foreign tax is, because of subsection (4.1), not included in computing the taxpayer's business-income tax or non-business-income tax.

Dispositions
ignored

(4.4) For the purposes of subsections (4.1) and (4.2) and the definition "economic profit" in subsection (7),

(a) a disposition or acquisition of property deemed to be made by subsection 45(1), section 70 or 128.1, paragraph 132.2(1)(f), subsection 138(11.3) or 142.5(2), paragraph 142.6(1)(b) or subsection 149(10) is not a disposition or acquisition, as the case may be; and

(b) a disposition

(i) to which section 51.1 applies, of a convertible obligation in exchange for a new obligation,

(ii) to which subsection 86(1) applies, of old shares in exchange for new shares, or

(iii) to which subsections 87(4) and (8) apply, of old shares in exchange for new shares,

is not a disposition, and the convertible obligation and the new obligation, or the old shares and the new shares, as the case may be, are deemed to be the same property.

(5) The portion of the definition "business-income tax" in subsection 126(7) of the Act before paragraph (a) is replaced by the following:

"business-income
tax"
« *impôt sur le
revenu tiré d'une
entreprise* »

"business-income tax" paid by a taxpayer for a taxation year in respect of businesses carried on by the taxpayer in a country other than Canada (in this definition referred to as the "business country") means, subject to subsections (4.1) and (4.2), the portion of any income or profits tax paid by the taxpayer for the year to the government of any country other than Canada or to the government of a state, province or other political subdivision of any such country that can reasonably be regarded as tax in respect of the income of the taxpayer from any business carried on by the taxpayer in the business country, but does not include a tax, or the portion of a tax, that can reasonably be regarded as relating to an amount that

(6) The portion of the definition "non-business-income tax" in subsection 126(7) of the Act before paragraph (a) is replaced by the following:

"non-business-
income tax"

« impôt sur le
revenu ne
provenant pas
d'une entreprise »

"non-business-income tax" paid by a taxpayer for a taxation year to the government of a country other than Canada means, subject to subsections (4.1) and (4.2), the portion of any income or profits tax paid by the taxpayer for the year to the government of that country, or to the government of a state, province or other political subdivision of that country, that

(7) Subsection 126(7) of the Act is amended by adding the following in alphabetical order:

"economic profit"
« profit
économique »

"economic profit" of a taxpayer in respect of a property for a period means the part of the taxpayer's profit, from the business in which the property is used, that is attributable to the property in respect of the period or to related transactions, determined as if the only amounts deducted in computing that part of the profit were

(a) interest and financing expenses incurred by the taxpayer and attributable to the acquisition or holding of the property in respect of the period or to a related transaction,

(b) income or profits taxes payable by the taxpayer for any year to the government of any country other than Canada or to the government of any state, province or other political subdivision of such a country, in respect of the property for the period or in respect of a related transaction, or

(c) other outlays and expenses that are directly attributable to the acquisition, holding or disposition of the property in respect of the period or to a related transaction;

"qualifying
incomes"
« revenus
admissibles »

"qualifying incomes" of a taxpayer from sources in a country means incomes from sources in the country, determined without reference to

(a) any portion of income that was deductible under subparagraph 110(1)(f)(i) in computing the taxpayer's taxable income,

(b) for the purpose of subparagraph 126(1)(b)(i), any portion of income in respect of which an amount was deducted under section 110.6 by the taxpayer, and

(c) any income from a source in the country if any income of the taxpayer from the source would be tax-exempt income;

"qualifying
losses"
« pertes
admissibles »

"qualifying losses" of a taxpayer from sources in a country means losses from sources in the country, determined without reference to

(a) any portion of income that was deductible under subparagraph 110(1)(f)(i) in computing the taxpayer's taxable income,

(b) for the purpose of subparagraph 126(1)(b)(i), any portion of income in respect of which an amount was deducted by the taxpayer under section 110.6, and

(c) any loss from a source in the country if any income of the taxpayer from the source would be tax-exempt income;

"related
transactions"
« opérations
connexes »

"related transactions", in respect of a taxpayer's ownership of a property for a period, means transactions entered into by the taxpayer as part of the arrangement under which the property was owned;

"tax-exempt
income"
« revenu exonéré
d'impôt »

"tax-exempt income" means income of a taxpayer from a source in a country in respect of which

(a) the taxpayer is, because of a tax treaty with that country, entitled to an exemption from all income or profits taxes, imposed in that country, to which the treaty applies, and

(b) no income or profits tax to which the treaty does not apply is imposed in any country other than Canada;

(8) Subsection 126 of the Act is amended by adding the following after subsection (7):

Deemed separate
source

(8) For the purpose of this section, if any income from a source in a particular country would be tax-exempt income but for the fact that a portion of the income is subject to an income or profits tax imposed by the government of a country other than Canada or of a state, province or other political subdivision of such a country, the portion is deemed to be income from a separate source in the particular country.

(9) Subsections (1) to (3), the definitions "qualifying incomes", "qualifying losses" and "tax-exempt income" in subsection 126(7) of the Act, as enacted by subsection (7), and subsection (8) apply to taxation years that begin after February 24, 1998.

(10) Subsections (4) to (6) and the definitions "economic profit" and "related transactions" in subsection 126(7) of the Act, as enacted by subsection (7), apply to the 1998 and subsequent taxation years.

48. (1) The portion of subsection 127(8) of the Act before paragraph (a) is replaced by the following:

Investment tax
credit of
partnership

(8) Subject to subsection (28), where, in a particular taxation year of a taxpayer who is a member of a partnership, an amount would be determined in respect of the partnership, for its taxation year that ends in the particular year, under paragraph (a), (a.1), (b) or (e.1) of the definition "investment tax credit" in subsection (9), if

(2) Section 127 of the Act is amended by adding the following after subsection (26):

Recapture of
investment tax
credit

(27) Where

(a) a taxpayer acquired a particular property from a person or partnership in a taxation year of the taxpayer or in any of the 10 preceding taxation years,

(b) the cost of the particular property was a qualified expenditure to the taxpayer,

(c) the cost of the particular property is included in an amount, a percentage of which can reasonably be considered to be included in computing the taxpayer's investment tax credit at the end of the taxation year, and

(d) in the year and after February 23, 1998, the taxpayer converts to commercial use, or disposes of without having previously converted to commercial use, the particular property or another property that incorporates the particular property,

there shall be added to the taxpayer's tax otherwise payable under this Part for the year the lesser of the amount that can reasonably be considered to be included in computing the taxpayer's investment tax credit in respect of the particular property and the amount that is the percentage (described in paragraph (c)) of

(e) if the particular property or the other property is disposed of to a person who deals at arm's length with the taxpayer, the proceeds of disposition of that property, and

(f) in any other case, the fair market value of the particular property or the other property at the time of the conversion or disposition.

Recapture of
investment tax
credit of
partnership

(28) For the purpose of computing the amount determined under subsection (8) in respect of a partnership at the end of a particular fiscal period, where

(a) a particular property, the cost of which is a qualified expenditure, is acquired by the partnership from a person or partnership in the particular fiscal period or in any of the 10 preceding fiscal periods of the partnership,

(b) the cost of the particular property is included in an amount, a percentage of which can reasonably be considered to have been included in computing the

amount determined under subsection (8) in respect of the partnership at the end of a fiscal period, and

(c) in the particular fiscal period and after February 23, 1998, the partnership converts to commercial use, or disposes of without having previously converted to commercial use, the particular property or another property that incorporates the particular property,

there shall be deducted in computing the amount determined under subsection (8) in respect of the partnership at the end of the particular fiscal period the lesser of

(d) the amount that can reasonably be considered to have been included in respect of the particular property in computing the amount determined under subsection (8) in respect of the partnership, and

(e) the percentage (described in paragraph (b)) of

(i) where the particular property or the other property is disposed of to a person who deals at arm's length with the partnership, the proceeds of disposition of that property, and

(ii) in any other case, the fair market value of the particular property or the other property at the time of the conversion or disposition.

Recapture of
investment tax
credit of
allocating
taxpayer

(29) Where

(a) a taxpayer acquired a particular property from a person or partnership in a taxation year or in any of the 10 preceding taxation years,

(b) the cost of the particular property was a qualified expenditure to the taxpayer,

(c) all or part of the qualified expenditure can reasonably be considered to have been the subject of an agreement made under subsection (13) by the taxpayer and another taxpayer (in this subsection referred to as the "transferee"), and

(d) in the year and after February 23, 1998, the taxpayer converts to commercial use, or disposes of without having previously converted to commercial use, the particular property or another property that incorporates the particular property,

there shall be added to the taxpayer's tax otherwise payable under this Part for the year the lesser of

(e) the amount that can reasonably be considered to have been included in computing the transferee's investment tax credit in respect of the qualified expenditure that was the subject of the agreement, and

(f) the amount determined by the formula

$$A \times B - C$$

where

A is the percentage applied by the transferee in determining its investment tax credit in respect of the qualified expenditure that was the subject of the agreement,

B is

(i) where the particular property or the other property is disposed of to a person who deals at arm's length with the taxpayer, the proceeds of disposition of that property, and

(ii) in any other case, the fair market value of the particular property or the other property at the time of the conversion or disposition, and

C is the amount, if any, added to the taxpayer's tax payable under subsection (27) in respect of the particular property.

Addition to tax

(30) Where a taxpayer is a member of a partnership and the total of

(a) the total of all amounts each of which is the lesser of the amounts described in paragraphs (28)(d) and (e) in respect of a property of the partnership, and

(b) the total of all amounts each of which is the lesser of the amounts described in paragraphs (35)(c) and (d) in respect of a property of the partnership,

exceeds the amount that would be determined in respect of the partnership under subsection (8) if that subsection were read without reference to subsections (28) and (35), the portion of the excess that can reasonably be considered to be the taxpayer's share of the excess shall be added to the taxpayer's tax otherwise payable under this Part for the year.

Tiered partnership

(31) Where a taxpayer is a member of a particular partnership that is a member of another partnership and an amount would be added to the particular partnership's tax payable under this Part for the year pursuant to subsection (30) if the particular partnership were a person and its fiscal period were its taxation year, that amount is deemed to be an amount that is the lesser of the amounts described in paragraphs (28)(d) and (e), in respect of a property of the particular partnership, that is required by subsection (28) to be deducted in computing the amount under subsection (8) in respect of the particular partnership at the end of the fiscal period.

Meaning of cost

(32) For the purposes of subsections (27), (28) and (29), "cost of the particular property" to a taxpayer shall not exceed the amount paid by the taxpayer to acquire the particular property from a transferor of the particular property and, for greater certainty, does not include amounts paid by the taxpayer to maintain, modify or transform the particular property.

Certain non-arm's length transfers

(33) Subsections (27) to (29), (34) and (35) do not apply to a taxpayer or partnership (in this subsection referred to as the "transferor") that disposes of a property to a person or partnership (in this subsection and subsections (34) and (35) referred to as the "purchaser"), that does not deal at arm's length with

the transferor, if the purchaser acquired the property in circumstances where the cost of the property to the purchaser would have been an expenditure of the purchaser described in subclause 37(8)(a)(ii)(A)(III) or (B)(III) but for subparagraph 2902(b)(iii) of the *Income Tax Regulations*.

Recapture of
investment tax
credit

(34) Where, at any particular time in a taxation year and after February 23, 1998, a purchaser (other than a partnership) converts to commercial use, or disposes of without having previously converted to commercial use, a property

(a) that was acquired by the purchaser in circumstances described in subsection (33) or that is another property that incorporates a property acquired in such circumstances; and

(b) that was first acquired, or that incorporates a property that was first acquired, by a person or partnership (in this subsection referred to as the "original user") with which the purchaser did not deal at arm's length at the time at which the purchaser acquired the property, in the original user's taxation year or fiscal period that includes the particular time (on the assumption that the original user had such a taxation year or fiscal period) or in any of the original user's 10 preceding taxation years or fiscal periods,

there shall be added to the purchaser's tax otherwise payable under this Part for the year the lesser of

(c) the amount

(i) included, in respect of the property, in the investment tax credit of the original user, or

(ii) where the original user is a partnership, that can reasonably be considered to have been included in respect of the property in computing the amount determined under subsection (8) in respect of the original user, and

(d) the amount determined by applying the percentage that was applied by the original user in determining the amount referred to in paragraph (c) to

(i) if the property or the other property is disposed of to a person who deals at arm's length with the purchaser, the proceeds of disposition of that property, and

(ii) in any other case, the fair market value of the property or the other property at the time of the conversion or disposition.

Recapture of
investment tax
credit

(35) Where, at any particular time in a fiscal period and after February 23, 1998, a purchaser is a partnership that converts to commercial use, or disposes of without having previously converted to commercial use, a property

(a) that was acquired by the purchaser in circumstances described in subsection (33) or that is another property that incorporates a property acquired in such circumstances, and

(b) that was first acquired, or that incorporates a property that was first acquired, by a person or partnership (in this subsection referred to as the "original user") with which the purchaser did not deal at arm's length at the time at which the purchaser acquired the property, in the original user's taxation year or fiscal period that includes the particular time (on the assumption that the original user had such a taxation year or fiscal period) or in any of the original user's 10 preceding taxation years or fiscal periods,

there shall be deducted in computing the amount determined under subsection (8) in respect of the purchaser at the end of the fiscal period the lesser of

(c) the amount

(i) included, in respect of the property, in the investment tax credit of the original user, or

(ii) where the original user is a partnership, that can reasonably be considered to have been included in respect of the property in computing the amount determined under subsection (8) in respect of the original user, and

(d) the amount determined by applying the percentage that was applied by the original user in determining the amount referred to in paragraph (c) to

(i) if the property or the other property is disposed of to a person who deals at arm's length with the purchaser, the proceeds of disposition of that property, and

(ii) in any other case, the fair market value of the property or the other property at the time of the conversion or disposition.

(3) Subsections (1) and (2) apply to dispositions and conversions of property that occur after February 23, 1998.

49. (1) The definition "qualifying trust" in subsection 127.4(1) of the Act is replaced by the following:

"qualifying trust"
« *fiducie*
admissible »

"qualifying trust" for an individual in respect of a share means

(a) a trust governed by a registered retirement savings plan, under which the individual is the annuitant, that is not a spousal plan (in this definition having the meaning assigned by subsection 146(1)) in relation to another individual, or

(b) a trust governed by a registered retirement savings plan, under which the individual or the individual's spouse is the annuitant, that is a spousal plan in relation to the individual or the individual's spouse, if the individual and no other person claims a deduction under subsection 127.4(2) in respect of the share;

(2) Subsection 127.4(2) of the Act is replaced by the following:

Deduction of
labour-sponsored
funds tax credit

(2) There may be deducted from the tax otherwise payable by an individual (other than a trust) for a taxation year such amount as the individual claims not exceeding the individual's labour-sponsored funds tax credit limit for the year.

(3) Subsections 127.4(3) and (4) of the Act are repealed.

(4) Paragraph 127.4(5)(a) of the Act is replaced by the following:

(a) \$750, and

(5) Section 127.4 of the Act is amended by adding the following after subsection (5):

Deemed original
acquisition

(5.1) If the Minister so directs, an original acquisition of an approved share that occurs in an individual's taxation year (other than in the first 60 days of the year) is deemed for the purpose of this section to have occurred at the beginning of the year and not at the time it actually occurred.

(6) The portion of subsection 127.4(6) of the Act before paragraph (a) is replaced by the following:

Labour-sponsored
funds tax credit

(6) For the purpose of subsection (5), an individual's labour-sponsored funds tax credit in respect of an original acquisition of an approved share is equal to the least of

(7) Subsections (1) to (4) and (6) apply to the 1998 and subsequent taxation years.

(8) Subsection (5) applies to acquisitions that are made after 1997.

50. (1) Where an individual's tax payable under Part I of the Act for a particular taxation year that began after 1993 and before 1998 is greater than the tax that would have been so payable if the Act were read without reference to paragraph 127.52(1)(a) and the individual was resident in Canada throughout, and was not a bankrupt at any time in, the period that began immediately after the end of the particular year and that ended at the end of 1997, the individual's minimum amount for the particular year under section 127.51 of the Act is deemed to be equal to the amount, if any, by which

(a) the amount that would be the individual's minimum amount for the particular year determined without reference to this subsection

exceeds

(b) the part of the individual's additional tax for the particular year determined under subsection 120.2(3) of the Act that can reasonably be considered to be attributable to the application of paragraph 127.52(1)(a) of the Act and not deductible in computing the individual's tax payable under Part I of the Act for any of the taxation years that began after the end of the particular year and before 1998.

(2) Paragraph 127.52(1)(a) of the Act is repealed.

(3) Subsection (1) applies to the 1994 and subsequent taxation years and, notwithstanding subsections 152(4) to (5) of the Act, such assessment of an

individual's tax payable under the Act for any taxation year shall be made as is necessary to take into account the application of subsection (1).

(4) Subsection (2) applies to the 1998 and subsequent taxation years.

51. (1) Paragraph 128(2)(d) of the Act is replaced by the following:

(d) except for the purposes of subsections 146(1), 146.01(4) and 146.02(4) and Part X.1,

(i) a taxation year of the individual is deemed to have begun at the beginning of the day on which the individual became a bankrupt, and

(ii) the individual's last taxation year that began before that day is deemed to have ended immediately before that day;

(2) Subparagraph 128(2)(e)(iii) of the Act is amended by striking out the word "and" at the end of clause (B) and by adding the following after that clause:

(B.1) under section 118.62 with respect to interest paid on or after the day on which the individual became bankrupt, and

(3) Subparagraph 128(2)(f)(iv) of the Act is replaced by the following:

(iv) in computing the individual's tax payable under this Part for the year, no amount were deductible under

(A) section 118.1 in respect of a gift made before the day on which the individual became bankrupt,

(B) section 118.62 in respect of interest paid before the day on which the individual became bankrupt, or

(C) section 118.61 or 120.2 or subsection 127(5),

(4) Subparagraph 128(2)(g)(ii) of the Act is amended by striking out the word "and" at the end of clause (B) and by adding the following after that clause:

(B.1) no amount shall be deducted under section 118.62 in respect of interest paid before the day on which the individual became bankrupt, and

(5) Subsection (1) applies to the 1999 and subsequent taxation years.

(6) Subsections (2) to (4) apply to bankruptcies that occur after 1997.

52. (1) The portion of paragraph 128.1(1)(b) of the Act before subparagraph (i) is replaced by the following:

Deemed disposition

(b) the taxpayer is deemed to have disposed, at the time (in this subsection referred to as the "time of disposition") that is immediately before the time that is immediately before the particular time, of each property owned by the taxpayer, other than, if the taxpayer is an individual,

(2) Subsection 128.1(1) of the Act is amended by striking out the word "and" at the end of paragraph (c) and by adding the following after that paragraph:

Deemed dividend to
immigrating
corporation

(c.1) if the taxpayer is a particular corporation that immediately before the time of disposition owned a share of the capital stock of another corporation resident in Canada, a dividend is deemed to have been paid by the other corporation, and received by the particular corporation, immediately before the time of disposition, equal to the amount, if any, by which the fair market value of the share immediately before the time of disposition exceeds the total of

(i) the paid-up capital in respect of the share immediately before the time of disposition, and

(ii) if the share immediately before the time of disposition was taxable Canadian property that is not treaty-protected property, the amount by which, at the time of disposition, the fair market value of the share exceeds its cost amount;

Deemed dividend to
shareholder of
immigrating
corporation

(c.2) if the taxpayer is a corporation and an amount has been added to the paid-up capital in respect of a class of shares of the corporation's capital stock because of paragraph (2)(b),

(i) the corporation is deemed to have paid, immediately before the time of disposition, a dividend on the issued shares of the class equal to the amount of the paid-up capital adjustment in respect of the class, and

(ii) a dividend is deemed to have been received, immediately before the time of disposition, by each person (other than a person in respect of whom the corporation is a foreign affiliate) who held any of the issued shares of the class equal to that proportion of the dividend so deemed to have been paid that the number of shares of the class held by the person immediately before the time of disposition is of the number of issued shares of the class outstanding immediately before the time of disposition; and

(3) Subsections 128.1(2) and (3) of the Act are replaced by the following:

Paid-up capital
adjustment

(2) If a corporation becomes resident in Canada at a particular time,

(a) for the purposes of subsection (1) and this subsection, the "paid-up capital adjustment" in respect of a particular class of shares of the corporation's capital stock in respect of that acquisition of residence is the positive or negative amount determined by the formula

$$(A \times B/C) - D$$

where

A is the amount, if any, by which

(i) the total of all amounts each of which is an amount deemed by paragraph (1)(c) to be the cost to the corporation of property deemed under that paragraph to have been acquired by the corporation at the particular time

exceeds

(ii) the total of all amounts each of which is the amount of a debt owing by the corporation, or any other obligation of the corporation to pay an amount, that is outstanding at the particular time,

B is the fair market value at the particular time of all of the shares of the particular class,

C is the total of all amounts each of which is the fair market value at the particular time of all of the shares of a class of shares of the corporation's capital stock, and

D is the paid-up capital at the particular time, determined without reference to this subsection, in respect of the particular class; and

(b) for the purposes of this Act, in computing the paid-up capital in respect of a class of shares of the corporation's capital stock at any time after the particular time and before the time, if any, at which the corporation next becomes resident in Canada, there shall be

(i) added the amount of the paid-up capital adjustment in respect of the particular class, if that amount is positive and the corporation so elects for all such classes in respect of that acquisition of residence by notifying the Minister in writing within 90 days after the particular time, and

(ii) deducted, if the amount of the paid-up capital adjustment in respect of the particular class is negative, the absolute value of that amount.

Paid-up capital
adjustment

(3) In computing the paid-up capital at any time in respect of a class of shares of the corporation's capital stock, there shall be deducted an amount equal to the lesser of A and B, and added an amount equal to the lesser of A and C, where

A is the absolute value of the difference between

(a) the total of all amounts deemed by subsection 84(3), (4) or (4.1) to be a dividend on shares of the class paid before that time by the corporation, and

(b) the total that would be determined under paragraph (a) if this Act were read without reference to subsection (2),

B is the total of all amounts required by subsection (2) to be added in computing the paid-up capital in respect of the class before that time, and

C is the total of all amounts required by subsection (2) to be subtracted in computing the paid-up capital in respect of the class before that time.

(4) Subsections (1) to (3) apply to corporations that become resident in Canada after February 23, 1998, except that an election made under subparagraph 128.1(2)(b)(i) of the Act, as enacted by subsection (3), is deemed to have been made in a timely manner if it is made by the corporation, with the consent of all who were shareholders of the corporation immediately before the time of disposition (within the meaning assigned by paragraph 128.1(1)(b) of the Act), before April 1, 1999.

53. (1) Paragraph 130.1(6)(d) of the Act is replaced by the following:

(d) there were 20 or more shareholders of the corporation and no person would have been a specified shareholder of the corporation at any time in the year if

(i) the portion of the definition "specified shareholder" in subsection 248(1) before paragraph (a) were read as follows:

"specified shareholder" of a corporation at any time means a taxpayer who owns, directly or indirectly, at that time, more than 25% of the issued shares of any class of the capital stock of the corporation and, for the purposes of this definition,

(ii) paragraph (a) of that definition were read as follows:

(a) a taxpayer is deemed to own each share of the capital stock of a corporation owned at that time by a person related to the taxpayer,

(iii) that definition were read without reference to paragraph (d) of that definition, and

(iv) paragraph 251(2)(a) were read as follows:

(a) an individual and

(i) the individual's child (as defined in subsection 70(10)) who is under 18 years of age, or

(ii) the individual's spouse;

(2) Subsection 130.1(7) of the Act is replaced by the following:

How shareholders
counted

(7) In paragraph (6)(d), a trust governed by a registered pension plan or deferred profit sharing plan by which shares of the capital stock of a corporation are held shall be counted as four shareholders of the corporation for the purpose of determining the number of shareholders of the corporation, but as one shareholder for the purpose of determining whether any person is a specified shareholder (as defined for the purpose of that paragraph).

(3) Subsections (1) and (2) apply in determining whether a corporation is a mortgage investment corporation for a taxation year that begins after January 14, 1998, except that subsections (1) and (2) apply to the corporation, with respect to a particular person and persons related to the particular person, only as provided in subsections (4) to (10) if

(a) the corporation was a mortgage investment corporation at the end of January 14, 1998;

(b) the particular person is a specified shareholder of the corporation at any time in the year; and

(c) the particular person

(i) was a specified shareholder of the corporation at the end of January 14, 1998, or

(ii) both

(A) was a specified shareholder of the corporation at any time after January 14, 1998 and before August 14, 1998, and

(B) would have been a specified shareholder of the corporation at the end of January 14, 1998 if paragraph 130.1(6)(d) of the Act, as enacted by subsection (1), were read without reference to subparagraphs (ii) and (iv).

(4) Subsections (1) and (2) apply to a corporation that was a mortgage investment corporation at the end of January 14, 1998 for a taxation year that begins after that day if a person who at any time in the year is a specified shareholder of the corporation contributes capital to the corporation, or acquires a share of the corporation's capital stock other than by a permitted acquisition, at any time after January 14, 1998 and before the end of the year.

(5) Subsections (1) and (2) apply to a corporation that was a mortgage investment corporation at the end of January 14, 1998 for a taxation year that begins after that day if a newly related person in respect of a person who at any time in the year is a specified shareholder of the corporation

(a) contributes capital to the corporation, or

(b) holds property (in this paragraph referred to as an "ineligible investment") that is

(i) a share of the capital stock of the corporation, or

(ii) a share of the capital stock of a corporation that holds an ineligible investment

at any time after January 14, 1998 and before the end of the year.

(6) Subsections (1) and (2) apply to a corporation that was a mortgage investment corporation at the end of January 14, 1998 for a taxation year that ends after that day if

(a) at any particular time after January 14, 1998 and before the end of the year, a mortgage lender is a specified shareholder of the corporation; and

(b) at any time that is in the taxation year that includes the particular time and that is after January 14, 1998, any person contributes capital to the corporation or acquires from the corporation a share of the corporation's capital stock, other than a share that was issued to the person as a stock dividend.

(7) Subsections (1) and (2) apply to a corporation that was a mortgage investment corporation at the end of January 14, 1998 for a taxation year that ends after 2007 if a mortgage lender is a specified shareholder of the corporation at any time in the year or in a taxation year that ends before the year and after 2007.

(8) For the purposes of subsections (4) to (7),

(a) if at a particular time

(i) a trust distributes a share of the capital stock of a corporation to a person who was a beneficiary under the trust throughout the period from the end of January 14, 1998 to the particular time in satisfaction of all or any part of the beneficiary's capital interest in the trust, or

(ii) a partnership distributes, to a person who was a member of the partnership throughout the period from the end of January 14, 1998 to the particular time, on the partnership ceasing to exist or on the ceasing of the person to be a member of the partnership, a share of the capital stock of a corporation or an interest in such a share,

the share is deemed to have been owned by the beneficiary or member throughout the period that begins at the later of the end of January 14, 1998 and the time the share was last acquired by the trust or partnership and that ends at the particular time; and

(b) if a person who is a beneficiary under a trust or who is a member of a partnership is deemed by paragraph (b), (c) or (e) of the definition "specified shareholder" in subsection 248(1) of the Act to own a share owned by the trust or partnership, the person is deemed to own the share and to have acquired the share at the later of the time the share was acquired by the trust or partnership and the time the person last became a beneficiary under the trust or a member of the partnership.

(9) At any time on or after the day of the death of a person described in paragraph (3)(c) in respect of a corporation and before the third anniversary of that day,

(a) the estate of the deceased person is deemed to be a person described in paragraphs (3)(b) and (c) who is related to each person who, throughout the period that begins at the beginning of January 15, 1998 and ends at the time of death, was related to the deceased person;

(b) notwithstanding subsection (10),

(i) the estate is deemed not to be a newly related person in respect of the corporation, and

(ii) the acquisition of shares of the corporation's capital stock by the estate from the deceased person is deemed to be a permitted acquisition; and

(c) the estate is deemed not to be a trust for the purposes of subparagraph (8)(a)(i) and paragraphs (b) and (e) of the definition "specified shareholder" in subsection 248(1) of the Act.

(10) The definitions in this subsection apply in subsections (3) to (9) and this subsection.

"mortgage lender"

« créancier
hypothécaire »

"mortgage lender" means a particular corporation where the ordinary business of

(a) the particular corporation, or

(b) a corporation (other than a mortgage investment corporation) or partnership affiliated with the particular corporation

includes the holding of debts that are secured, whether by mortgage or in any other manner, on houses (as defined in section 2 of the *National Housing Act*) or on property included within a housing project (as defined in that section).

"newly related
persons"

« *personnes
nouvellement liées*
»

"newly related persons" means persons who are related to each other and who became so related after January 14, 1998.

"permitted
acquisition"
« *acquisition
autorisée* »

"permitted acquisition" means an acquisition by a particular person of a share of a class of the capital stock of a corporation that was

(a) held, at each particular time after January 14, 1998 and before the time at which the particular person acquired it, or

(b) issued after January 14, 1998 by the corporation as a stock dividend and held, at each particular time after the time the share was issued and before the time at which the particular person acquired it,

by the particular person or by a person who was related to the particular person throughout the period that began at the beginning of January 15, 1998 and that ends at the particular time if, immediately after the time at which the particular person acquires the share, the percentage of the issued shares of that class held by the particular person and persons related to the particular person (or in the case of acquisitions before August 14, 1998, by the particular person and persons with whom the particular person did not deal at arm's length immediately after the acquisition) does not exceed the permitted percentage for the particular person in respect of that class of shares.

"permitted
percentage"
« *pourcentage
autorisé* »

"permitted percentage" for a particular person in respect of a class of shares of the capital stock of a corporation means

(a) in respect of acquisitions of shares before August 14, 1998, the percentage of the issued shares of that class held at the end of January 14, 1998 by the particular person and persons with whom the particular person did not at that time deal at arm's length; and

(b) in any other case, the greater of

(i) the percentage of the issued shares of that class held at the end of January 14, 1998 by the particular person and persons related at that time to the particular person, and

(ii) the percentage of the issued shares of that class held at the beginning of August 14, 1998 by the particular person and persons related at that time to the particular person.

"related persons"
« *personnes liées*
»

"related persons" and persons related to each other have, for purposes other than applying the definitions "permitted acquisition" and "permitted percentage" in respect of acquisitions of shares before August 14, 1998, the meaning that would be assigned by section 251 of the Act if paragraph 251(2)(a) of the Act were read as follows:

(a) an individual and

(i) the individual's child (as defined in subsection 70(10)) who is under 19 years of age, or

(ii) the individual's spouse;

"specified
shareholder"
« actionnaire
déterminé »

"specified shareholder" has the meaning assigned by paragraph 130.1(6)(d) of the Act, as enacted by subsection (1).

54. (1) Subsection 132(6.1) of the Act is replaced by the following:

Election to be
mutual fund

(6.1) Where a trust becomes a mutual fund trust at any particular time before the 91st day after the end of its first taxation year, and the trust so elects in its return of income for that year, the trust is deemed to have been a mutual fund trust from the beginning of that year until the particular time.

(2) Subsection (1) applies to the 1998 and subsequent taxation years.

55. (1) The Act is amended by adding the following after section 132.1:

Taxation year of
mutual fund trust

132.11 (1) Notwithstanding any other provision of this Act, where a trust (other than a prescribed trust) that was a mutual fund trust on the 74th day after the end of a particular calendar year so elects in writing filed with the Minister with the trust's return of income for the trust's taxation year that includes December 15 of the particular year,

(a) the trust's taxation year that began before December 16 of the particular year and, but for this paragraph, would end at the end of the particular year (or, where the first taxation year of the trust began after December 15 of the preceding calendar year and no return of income was filed for a taxation year of the trust that ended at the end of the preceding calendar year, at the end of the preceding calendar year) is deemed to end at the end of December 15 of the particular year;

(b) where the trust's taxation year ends on December 15 because of paragraph (a), each subsequent taxation year of the trust is deemed to be the period that begins at the beginning of December 16 of a calendar year and ends at the end of December 15 of the following calendar year or at such earlier time as is determined under paragraph 132.2(1)(b) or subsection 142.6(1); and

(c) each fiscal period of the trust that begins in a taxation year of the trust that ends on December 15 because of paragraph (a) or that ends in a

subsequent taxation year of the trust shall end no later than the end of the year or the subsequent year, as the case may be.

Electing trust's
share of
partnership income
and losses

(2) Where a trust is a member of a partnership a fiscal period of which ends in a calendar year after December 15 of the year and a particular taxation year of the trust ends on December 15 of the year because of subsection (1), each amount otherwise determined under paragraph 96(1)(f) or (g) to be the trust's income or loss for a subsequent taxation year of the trust is deemed to be the trust's income or loss determined under paragraph 96(1)(f) or (g) for the particular year and not for the subsequent year.

Electing trust's
income from other
trusts

(3) Where a particular trust is a beneficiary under another trust a taxation year of which (in this subsection referred to as the "other year") ends in a calendar year after December 15 of the year and a particular taxation year of the trust ends on December 15 of the year because of subsection (1), each amount determined or designated under subsection 104(13), (19), (21), (22) or (29) for the other year that would otherwise be included, or taken into account, in computing the income of the particular trust for a subsequent taxation year of the trust shall

(a) be included, or taken into account, in computing the particular trust's income for the particular year; and

(b) not be included, or taken into account, in computing the particular trust's income for the subsequent year.

Amounts paid or
payable to
beneficiaries

(4) For the purposes of subsections 52(6) and 104(6) and (13) and subsections (5) and (6) and notwithstanding subsection 104(24), each amount that is paid, or that becomes payable, by a trust to a beneficiary after the end of a particular taxation year of the trust that ends on December 15 of a calendar year because of subsection (1) and before the end of that calendar year is deemed to have been paid or to have become payable, as the case may be, to the beneficiary at the end of the particular taxation year and not at any other time.

Special rules
where change in
status of
beneficiary

(5) Where an amount is deemed by subsection (4) to have been paid or to have become payable at the end of December 15 of a calendar year by a trust to a beneficiary who was not a beneficiary under the trust at that time,

(a) notwithstanding any other provision of this Act, where the beneficiary did not exist at that time, except for the purpose of this paragraph, the first taxation year of the beneficiary is deemed to include the period that begins at that time and ends immediately before the beginning of the first taxation year of the beneficiary;

(b) the beneficiary is deemed to exist throughout the period described in paragraph (a); and

(c) where the beneficiary was not a beneficiary under the trust at that time, the beneficiary is deemed to have been a beneficiary under the trust at that time.

Additional income
of electing trust

(6) Where a particular amount is designated under this subsection by a trust in its return of income for a particular taxation year that ends on December 15 because of subsection (1) or throughout which the trust was a mutual fund trust and the trust does not designate an amount under subsection 104(13.1) or (13.2) for the particular year,

(a) the particular amount shall be added in computing its income for the particular year;

(b) for the purposes of subsections 104(6) and (13), each portion of the particular amount that is allocated under this paragraph to a beneficiary under the trust in the trust's return of income for the particular year in respect of an amount paid or payable to the beneficiary in the particular year shall be considered to be additional income of the trust for the particular year (determined without reference to subsection 104(6)) that was paid or payable, as the case may be, to the beneficiary at the end of the particular year; and

(c) for the purpose of subsection 52(6), where a portion of the particular amount is allocated to a beneficiary under paragraph (b) in respect of an amount that became payable to the beneficiary in the particular year, the right to the amount so payable shall be considered to be a right to enforce payment by the trust to the beneficiary out of the trust's income (determined without reference to the provisions of this Act) for the particular year.

Deduction

(7) Subject to subsection (8), the lesser of the amount designated under subsection (6) by a trust for a taxation year and the total of all amounts each of which is allocated by the trust under paragraph (6)(b) in respect of the year shall be deducted in computing the trust's income for the following taxation year.

Anti-avoidance

(8) Subsection (7) does not apply in computing the income of a trust for a taxation year where it is reasonable to consider that the designation under subsection (6) for the preceding taxation year was part of a series of transactions or events that includes a change in the composition of beneficiaries under the trust.

(2) Subsection (1) applies to the 1998 and subsequent taxation years.

56. (1) Paragraph 132.2(1)(k) of the Act is replaced by the following:

(k) where a share to which paragraph (j) applies would, but for this paragraph, cease to be a qualified investment (within the meaning assigned by subsection 146(1), 146.1(1) or 146.3(1) or section 204) as a consequence of the qualifying exchange, the share is deemed to be a qualified investment until the earlier of the day that is 60 days after the transfer time and the time at which it is disposed of in accordance with paragraph (j);

(2) Subsection (1) applies after 1997.

57. (1) Subparagraph (a)(i) of the definition "financial institution" in subsection 142.2(1) of the Act is replaced by the following:

(i) a corporation referred to in any of paragraphs (a) to (e.1) of the definition "restricted financial institution" in subsection 248(1),

(2) Subsection (1) applies to taxation years that begin after 1998.

58. (1) Subparagraph 142.6(1)(a)(i) of the Act is replaced by the following:

(i) except for the purpose of subsection 132(6.1), the taxpayer's taxation year that would otherwise have included the particular time is deemed to have ended immediately before that time and a new taxation year of the taxpayer is deemed to have begun at that time, and

(2) Subsection (1) applies after 1997.

59. (1) The portion of the definition "premium" in subsection 146(1) of the Act after paragraph (b) is replaced by the following:

but, except for the purposes of paragraph (b) of the definition "benefit" in this subsection, paragraph (2)(b.3), subsection (22) and the definition "excluded premium" in subsection 146.02(1), does not include a repayment to which paragraph (b) of the definition "excluded withdrawal" in either subsection 146.01(1) or 146.02(1) applies or an amount that is designated under subsection 146.01(3) or 146.02(3);

(2) The portion of the definition "refund of premiums" in subsection 146(1) of the Act after paragraph (b) is replaced by the following:

and for the purpose of paragraph (b), it is assumed, unless the contrary is established, that a dependant was not financially dependent on the annuitant for support at the time of the annuitant's death if the dependant's income for the year preceding the taxation year in which the annuitant died exceeded the total of \$500 and the amount used under paragraph (c) of the description of B in subsection 118(1) for that preceding year;

(3) Subparagraph 146(5)(a)(iv.1) of the Act is replaced by the following:

(iv.1) that would be considered to be withdrawn by the taxpayer as an eligible amount (as defined in subsection 146.01(1) or 146.02(1)) less than 90 days after it was paid, if earnings in respect of a registered retirement savings plan were considered to be withdrawn before premiums paid under that plan and premiums were considered to be withdrawn in the order in which they were paid

(4) Subparagraph 146(5.1)(a)(iv) of the Act is replaced by the following:

(iv) that would be considered to be withdrawn by the taxpayer's spouse as an eligible amount (as defined in subsection 146.01(1) or 146.02(1)) less than 90 days after it was paid, if earnings in respect of a registered retirement savings plan were considered to be withdrawn before premiums paid under that plan and premiums were considered to be withdrawn in the order in which they were paid, and

(5) Subsections 146(8) and (8.01) of the Act are replaced by the following:

Benefits taxable

(8) There shall be included in computing a taxpayer's income for a taxation year the total of all amounts received by the taxpayer in the year as benefits out of or under registered retirement savings plans, other than excluded withdrawals (as defined in subsection 146.01(1) or 146.02(1)) of the taxpayer and amounts that are included under paragraph (12)(b) in computing the taxpayer's income.

Subsequent
re-calculation

(8.01) If a designated withdrawal (as defined in subsection 146.01(1)) or an amount referred to in paragraph (a) of the definition "eligible amount" in subsection 146.02(1) is received by a taxpayer in a taxation year and, at any time after that year, it is determined that the amount is not an excluded withdrawal (as defined in subsection 146.01(1) or 146.02(1)), notwithstanding subsections 152(4) to (5), such assessments of tax, interest and penalties shall be made as are necessary to give effect to the determination.

(6) Subsection 146(21) of the Act is replaced by the following:

Prescribed
provincial pension
plans

(21) Where

(a) an amount (other than an amount that is part of a series of periodic payments) is transferred directly from an individual's account under a provincial pension plan prescribed for the purpose of paragraph 60(v)

(i) to a registered retirement savings plan or registered retirement income fund under which the individual, or a spouse or former spouse of the individual, is the annuitant,

(ii) to acquire from a licensed annuities provider an annuity that would be described in subparagraph 60(1)(ii) if the individual, or a spouse or former spouse of the individual, were the taxpayer referred to in that subparagraph and if that subparagraph were read without reference to clause 60(1)(ii)(B), or

(iii) to an account under the plan of a spouse or former spouse of the individual, and

(b) if the transfer is in respect of a spouse or former spouse of the individual,

(i) the individual and the spouse or former spouse are living separate and apart and the transfer is made under a decree, order or judgment of a competent tribunal, or under a written separation agreement, relating to a division of property in settlement of rights arising out of, or on the breakdown of, their marriage, or

(ii) the amount is transferred as a consequence of the individual's death,

the following rules apply:

(c) the amount shall not, solely because of the transfer, be included because of subparagraph 56(1)(a)(i) in computing the income of a taxpayer, and

(d) no deduction may be made under any provision of this Act in respect of the transfer in computing the income of a taxpayer.

Deemed
payment of
RRSP
premiums and
provincial
pension plan
contributions

(22) If the Minister so directs,

(a) except for the purposes of subparagraphs (5)(a)(iv.1) and (5.1)(a)(iv), an amount paid by an individual in a taxation year (other than an amount paid in the first 60 days of the year) as a contribution to an account under a prescribed provincial pension plan or as a premium is deemed to have been paid at the beginning of the year and not at the time it was actually paid;

(b) all or part of the amount may be designated in writing by the individual for the purpose of paragraph 60(j), (j.1) or (l) or subsection 146.01(3) or 146.02(3); and

(c) the designation is deemed to have been made in the individual's return of income for the preceding taxation year or in a prescribed form filed with that return, as the case may be.

(7) Subsection (1) applies to the 1997 and subsequent taxation years.

(8) Subsections (2) and (5) apply to the 1999 and subsequent taxation years.

(9) Subsections (3) and (4) apply to the 1998 and subsequent taxation years.

(10) Subsection 146(21) of the Act, as enacted by subsection (6), applies to transfers made after 1994.

(11) Subsection 146(22) of the Act, as enacted by subsection (6), applies to amounts paid after 1997.

60. (1) The definition "eligible amount" in subsection 146.01(1) of the Act is replaced by the following:

"eligible amount"
« *montant*
admissible »

"eligible amount" of an individual is a regular eligible amount or supplemental eligible amount of the individual;

(2) The definition "excluded withdrawal" in subsection 146.01(1) of the Act is replaced by the following:

"excluded
withdrawal"
« *retrait exclu* »

"excluded withdrawal" of an individual means

(a) an eligible amount received by the individual,

(b) a particular amount (other than an eligible amount) received while the individual was resident in Canada and in a calendar year if

(i) the particular amount would be an eligible amount of the individual if the definition "regular eligible amount" were read without reference to paragraphs (c) and (g) of that definition and the definition "supplemental eligible amount" were read without reference to paragraphs (d) and (f) of that definition,

(ii) a payment (other than an excluded premium) equal to the particular amount is made by the individual under a retirement saving plan that is, at the end of the taxation year of the payment, a registered retirement savings plan under which the individual is the annuitant,

(iii) the payment is made before the particular time that is

(A) if the individual was not resident in Canada at the time the individual filed a return of income for the taxation year in which the particular amount was received, the earlier of

(I) the end of the following calendar year, and

(II) the time at which the individual filed the return,

(B) where clause (A) does not apply and the particular amount would, but for subclause (2)(c)(ii)(A)(II), be an eligible amount, the end of the second following calendar year, and

(C) in any other case, the end of the following calendar year, and

(iv) either

(A) if the particular time is before 2000, the payment is made, as a repayment of the particular amount, to the issuer of the registered retirement savings plan from which the particular amount was received, no other payment is made as a repayment of the particular amount and that issuer is notified of the payment in prescribed form submitted to the issuer at the time the payment is made, or

(B) the payment is made after 1999 and before the particular time and the payment (and no other payment) is designated under this clause as a repayment of the particular amount in prescribed form filed with the Minister on or before the particular time (or before such later time as is acceptable to the Minister), or

(c) an amount (other than an eligible amount) that is received in a calendar year before 1999 and that would be an eligible amount of the individual if the definition "eligible amount", as it applied to amounts received before 1999, were read without reference to paragraphs (c) and (e) of that definition, where the individual

(i) died before the end of the following calendar year, and

(ii) was resident in Canada throughout the period that began immediately after the amount was received and ended at the time of the death;

(3) The definition "replacement property" in subsection 146.01(1) of the Act is replaced by the following:

"replacement
property"
« *bien de
remplacement* »

"replacement property" for a particular qualifying home in respect of an individual, or of a specified disabled person in respect of the individual, means another qualifying home that

(a) the individual or the specified disabled person agrees to acquire, or begins the construction of, at a particular time that is after the latest time that the individual made a request described in the definition "designated withdrawal" in respect of the particular qualifying home,

(b) at the particular time, the individual intends to be used by the individual or the specified disabled person as a principal place of residence not later than one year after its acquisition, and

(c) none of the individual, the individual's spouse, the specified disabled person or that person's spouse had acquired before the particular time;

(4) Subsection 146.01(1) of the Act is amended by adding the following in alphabetical order:

"designated
withdrawal"
« *retrait
déterminé* »

"designated withdrawal" of an individual is an amount received by the individual, as a benefit out of or under a registered retirement savings plan, pursuant to the individual's written request in the prescribed form referred to in paragraph (a) of the definition "eligible amount" (as that definition read in its application to amounts received before 1999), paragraph (a) of the definition "regular eligible amount" or paragraph (a) of the definition "supplemental eligible amount";

"HBP balance"
« *solde RAP* »

"HBP balance" of an individual at any time means the amount, if any, by which the total of all eligible amounts received by the individual at or before that time exceeds the total of

(a) all amounts designated under subsection (3) by the individual for taxation years that ended before that time, and

(b) all amounts each of which is included under subsection (4) or (5) in computing the individual's income for a taxation year that ended before that time;

"participation
period"
« *période de
participation* »

"participation period" of an individual means each period

(a) that begins at the beginning of a calendar year in which the individual receives an eligible amount, and

(b) that ends immediately before the beginning of the first subsequent calendar year at the beginning of which the individual's HBP balance is nil;

"regular eligible
amount"

« montant
admissible
principal »

"regular eligible amount" of an individual means an amount received at a particular time by the individual as a benefit out of or under a registered retirement savings plan if

(a) the amount is received pursuant to the individual's written request in a prescribed form in which the individual sets out the location of a qualifying home that the individual has begun, or intends not later than one year after its acquisition by the individual to begin, using as a principal place of residence,

(b) the individual entered into an agreement in writing before the particular time for the acquisition of it or with respect to its construction,

(c) the individual

(i) acquires the qualifying home (or a replacement property for the qualifying home) before the completion date in respect of the amount, or

(ii) dies before the end of the calendar year that includes the completion date in respect of the amount,

(d) neither the individual nor the individual's spouse acquired the qualifying home more than 30 days before the particular time,

(e) the individual did not have an owner-occupied home in the period

(i) that began at the beginning of the fourth preceding calendar year that ended before the particular time, and

(ii) that ended on the 31st day before the particular time,

(f) the individual's spouse did not, in the period referred to in paragraph (e), have an owner-occupied home

(i) that was inhabited by the individual during the spouse's marriage to the individual, or

(ii) that was a share of the capital stock of a cooperative housing corporation that relates to a housing unit inhabited by the individual during the spouse's marriage to the individual,

(g) the individual

(i) acquired the qualifying home before the particular time and is resident in Canada at the particular time, or

(ii) is resident in Canada throughout the period that begins at the particular time and ends at the earlier of the time of the individual's death and the earliest time at which the individual acquires the qualifying home or a replacement property for it,

(h) the total of the amount and all other eligible amounts received by the individual in the calendar year that includes the particular time does not exceed \$20,000, and

(i) the individual's HBP balance at the beginning of the calendar year that includes the particular time is nil;

"specified
disabled person"
« *personne
handicapée
déterminée* »

"specified disabled person", in respect of an individual at any time, means a person who

(a) is the individual or is related at that time to the individual, and

(b) would be entitled to a deduction under subsection 118.3(1) in computing tax payable under this Part for the person's taxation year that includes that time if that subsection were read without reference to paragraph (c) of that subsection;

"supplemental
eligible amount"
« *montant
admissible
supplémentaire* »

"supplemental eligible amount" of an individual means an amount received at a particular time by the individual as a benefit out of or under a registered retirement savings plan if

(a) the amount is received pursuant to the individual's written request in a prescribed form identifying a specified disabled person in respect of the individual and setting out the location of a qualifying home

(i) that has begun to be used by that person as a principal place of residence, or

(ii) that the individual intends to be used by that person as a principal place of residence not later than one year after its first acquisition after the particular time,

(b) the purpose of receiving the amount is to enable the specified disabled person to live

(i) in a dwelling that is more accessible by that person or in which that person is more mobile or functional, or

(ii) in an environment better suited to the personal needs and care of that person,

(c) the individual or the specified disabled person entered into an agreement in writing before the particular time for the acquisition of the qualifying home or with respect to its construction,

(d) either

(i) the individual or the specified disabled person acquires the qualifying home (or a replacement property for it) after 1998 and before the completion date in respect of the amount, or

(ii) the individual dies before the end of the calendar year that includes the completion date in respect of the amount,

(e) none of the individual, the spouse of the individual, the specified disabled person or the spouse of that person acquired the qualifying home more than 30 days before the particular time,

(f) either

(i) the individual or the specified disabled person acquired the qualifying home before the particular time and the individual is resident in Canada at the particular time, or

(ii) the individual is resident in Canada throughout the period that begins at the particular time and ends at the earlier of the time of the individual's death and the earliest time at which

(A) the individual acquires the qualifying home or a replacement property for it, or

(B) the specified disabled person acquires the qualifying home or a replacement property for it,

(g) the total of the amount and all other eligible amounts received by the individual in the calendar year that includes the particular time does not exceed \$20,000, and

(h) the individual's HBP balance at the beginning of the calendar year that includes the particular time is nil.

(5) Paragraphs 146.01(2)(c) to (f) of the Act are replaced by the following:

(c) except for the purposes of subparagraph (g)(ii) of the definition "regular eligible amount" and subparagraph (f)(ii) of the definition "supplemental eligible amount", an individual or a specified disabled person in respect of the individual is deemed to have acquired, before the completion date in respect of a designated withdrawal received by the individual, the qualifying home in respect of which the designated withdrawal was received if

(i) neither the qualifying home nor a replacement property for it was acquired by the individual or the specified disabled person before that completion date, and

(ii) either

(A) the individual or the specified disabled person

(I) is obliged under the terms of a written agreement in effect on that completion date to acquire the qualifying home (or a replacement property for it) on or after that date, and

(II) acquires the qualifying home or a replacement property for it before the day that is one year after that completion date, or

(B) the individual or the specified disabled person made payments, the total of which equalled or exceeded the total of all designated withdrawals that were received by the individual in respect of the qualifying home,

(I) to persons with whom the individual was dealing at arm's length,

(II) in respect of the construction of the qualifying home or a replacement property for it, and

(III) in the period that begins at the time the individual first received a designated withdrawal in respect of the qualifying home and that ends before that completion date; and

(d) an amount received by an individual in a particular calendar year is deemed to have been received by the individual at the end of the preceding calendar year and not at any other time if

(i) the amount is received in January of the particular year (or at such later time as is acceptable to the Minister),

(ii) the amount would not be an eligible amount if this section were read without reference to this paragraph, and

(iii) the amount would be an eligible amount if the definition "regular eligible amount" in subsection (1) were read without reference to paragraph (i) of that definition and the definition "supplemental eligible amount" were read without reference to paragraph (h) of that definition.

(6) The portion of subsection 146.01(3) of the Act before paragraph (a) is replaced by the following:

Repayment of
eligible amount

(3) An individual may designate a single amount for a taxation year in a prescribed form filed with the individual's return of income for the year if the amount does not exceed the lesser of

(7) Paragraph 146.01(3)(a) of the Act is replaced by the following:

(a) the total of all amounts (other than excluded premiums, repayments to which paragraph (b) of the definition "excluded withdrawal" in subsection (1) applies and amounts paid by the individual in the first 60 days of the year that can reasonably be considered to have been deducted in computing the individual's income, or designated under this subsection, for the preceding taxation year) paid by the individual in the year or within 60 days after the end of the year under a retirement savings plan that is at the end of the year or the following taxation year a registered retirement savings plan under which the individual is the annuitant, and

(8) The portion of subsection 146.01(4) of the Act before the formula is replaced by the following:

Portion of
eligible amount
not repaid

(4) There shall be included in computing an individual's income for a particular taxation year included in a particular participation period of the individual the amount determined by the formula

(9) Paragraph (b) of the description of A in subsection 146.01(4) of the Act is replaced by the following:

(b) in any other case, the total of all eligible amounts received by the individual in preceding taxation years included in the particular period,

(10) The descriptions of B and C in subsection 146.01(4) of the Act are replaced by the following:

B is

(a) nil, if the completion date in respect of an eligible amount received by the individual was in the preceding taxation year, and

(b) in any other case, the total of all amounts each of which is designated under subsection (3) by the individual for a preceding taxation year included in the particular period;

C is the total of all amounts each of which is included under this subsection or subsection (5) in computing the individual's income for a preceding taxation year included in the particular period;

(11) The description of E in subsection 146.01(4) of the Act is replaced by the following:

E is

(a) if the completion date in respect of an eligible amount received by the individual was in the preceding taxation year, the total of all amounts each of which is designated under subsection (3) by the individual for the particular year or any preceding taxation year included in the particular period, and

(b) in any other case, the amount designated under subsection (3) by the individual for the particular year.

(12) Paragraph 146.01(5)(c) of the Act is replaced by the following:

(c) all amounts included under subsection (4) or this subsection in computing the individual's income for preceding taxation years.

(13) Paragraph 146.01(6)(a) of the Act is replaced by the following:

(a) the total of all excluded withdrawals in respect of the individual received before that time (other than excluded withdrawals in respect of the individual that were repaid as described in the definition "excluded withdrawal" in subsection (1))

(14) Subsection 146.01(6) of the Act, as amended by subsection (13), is replaced by the following:

Death of
individual

(6) If an individual dies at any time in a taxation year, there shall be included in computing the individual's income for the year the amount, if any, by which

(a) the individual's HBP balance immediately before that time
exceeds

(b) the amount designated under subsection (3) by the individual for the year.

(15) Subsection 146.01(7) of the Act is replaced by the following:

Exception

(7) If a spouse of an individual was resident in Canada immediately before the individual's death at a particular time in a taxation year and the spouse and the

individual's legal representatives jointly so elect in writing in the individual's return of income for the year,

(a) subsection (6) does not apply to the individual;

(b) the spouse is deemed to have received a particular eligible amount at the particular time equal to the amount that, but for this subsection, would be determined under subsection (6) in respect of the individual;

(c) for the purposes of subsection (4) and paragraph (d), the completion date in respect of the particular amount is deemed to be

(i) if the spouse received an eligible amount before the death (other than an eligible amount received in a participation period of the spouse that ended before the beginning of the year), the completion date in respect of that amount, and

(ii) in any other case, the completion date in respect of the last eligible amount received by the individual; and

(d) for the purpose of subsection (4), the completion date in respect of each eligible amount received by the spouse, after the death and before the end of the spouse's participation period that includes the time of the death, is deemed to be the completion date in respect of the particular amount.

(16) Subsection (1), the definitions "regular eligible amount" and "supplemental eligible amount" in subsection 146.01(1) of the Act, as enacted by subsection (4), and subsection (5) apply to amounts received after 1998.

(17) Subsection (2) applies to amounts received after 1996, except that the portion of paragraph (b) of the definition "excluded withdrawal" in subsection 146.01(1) of the Act before subparagraph (ii), as enacted by subsection (2), shall in its application to amounts received before 1999 be read as follows:

(b) a particular amount (other than an eligible amount), received in a calendar year, that would be an eligible amount of the individual if

(i) the definition "eligible amount" were read without reference to paragraphs (c) and (e) of that definition,

(18) Subsection (3) and the definitions "designated withdrawal", "HBP balance", "participation period" and "specified disabled person" in subsection 146.01(1) of the Act, as enacted by subsection (4), apply after 1998.

(19) Subsections (6) and (8) to (12) apply to the 1999 and subsequent taxation years.

(20) Subsection (7) applies to the 1996 and subsequent taxation years.

(21) Subsection (13) applies to the 1997 to 1999 taxation years.

(22) Subsection (14) applies to the 2000 and subsequent taxation years.

(23) Subsection (15) applies to deaths that occur after 1998 except that, for deaths that occur in 1999, subparagraph 146.01(7)(c)(ii) of the Act, as enacted by subsection (15), shall be read as follows:

(ii) in any other case,

(A) the completion date in respect of an eligible amount, if any, received by the individual in a participation period of the individual that includes the time of the death, or

(B) if clause (A) does not apply, October 1, 2000; and

61. (1) The Act is amended by adding the following after section 146.01:

Lifelong Learning Plan

Definitions

146.02 (1) The definitions in this subsection apply in this section.

"annuitant"
« *rentier* »

"annuitant" has the meaning assigned by subsection 146(1).

"benefit"
« *prestation* »

"benefit" has the meaning assigned by subsection 146(1).

"eligible amount"
« *montant
admissible* »

"eligible amount" of an individual means a particular amount received at a particular time in a calendar year by the individual as a benefit out of or under a registered retirement savings plan if

(a) the particular amount is received after 1998 pursuant to the individual's written request in a prescribed form;

(b) in respect of the particular amount, the individual designates in the form a person (in this definition referred to as the "designated person") who is the individual or the individual's spouse;

(c) the total of the particular amount and all other eligible amounts received by the individual at or before the particular time and in the year does not exceed \$10,000;

(d) the total of the particular amount and all other eligible amounts received by the individual at or before the particular time (other than amounts received in participation periods of the individual that ended before the year) does not exceed \$20,000;

(e) the individual did not receive an eligible amount at or before the particular time in respect of which someone other than the designated person was designated (other than an amount received in a participation period of the individual that ended before the year);

(f) the designated person

(i) is enrolled at the particular time as a full-time student in a qualifying educational program, or

(ii) has received written notification before the particular time that the designated person is absolutely or contingently entitled to enrol

before March of the following year as a full-time student in a qualifying educational program;

(g) the individual is resident in Canada throughout the period that begins at the particular time and ends immediately before the earlier of

(i) the beginning of the following year, and

(ii) the time of the individual's death;

(h) except where the individual dies after the particular time and before April of the following year, the designated person is enrolled as a full-time student in a qualifying educational program after the particular time and before March of the following year and

(i) the designated person completes the program before April of the following year,

(ii) the designated person does not withdraw from the program before April of the following year, or

(iii) less than 75% of the tuition paid, after the beginning of the year and before April of the following year, in respect of the designated person and the program is refundable; and

(i) if an eligible amount was received by the individual before the year, the particular time is neither

(i) in the individual's repayment period for the individual's participation period that includes the particular time, nor

(ii) after January (or a later month where the Minister so permits) of the fifth calendar year of that participation period.

"excluded premium"

« prime exclue »

"excluded premium" of an individual means a premium that

(a) was designated by the individual for the purpose of paragraph 60(j), (j.1) or (l) or subsection 146.01(3);

(b) was a repayment to which paragraph (b) of the definition "excluded withdrawal" in subsection 146.01(1) applies;

(c) was an amount transferred directly from a registered retirement savings plan, registered pension plan, registered retirement income fund, deferred profit sharing plan or a provincial pension plan prescribed for the purpose of paragraph 60(v); or

(d) was deductible under subsection 146(6.1) in computing the individual's income for any taxation year.

"excluded withdrawal"

« retrait exclu »

"excluded withdrawal" of an individual means

(a) an eligible amount received by the individual; or

(b) a particular amount (other than an eligible amount) received while the individual was resident in Canada and in a calendar year if

(i) the particular amount would be an eligible amount of the individual if the definition "eligible amount" were read without reference to paragraphs (g) and (h) of that definition,

(ii) a payment (other than an excluded premium) equal to the particular amount is paid by the individual under a retirement savings plan that is, at the end of the taxation year of payment, a registered retirement savings plan under which the individual is the annuitant,

(iii) the payment is made before the particular time that is,

(A) if the individual was not resident in Canada at the time the individual filed a return of income for the taxation year in which the particular amount was received, the earlier of

(I) the end of the following calendar year, and

(II) the time at which the individual filed the return, and

(B) in any other case, the end of the following calendar year, and

(iv) the payment (and no other payment) is designated under this subparagraph as a repayment of the particular amount in prescribed form filed with the Minister on or before the particular time (or before such later time as is acceptable to the Minister).

"full-time
student"
« *étudiant à temps
plein* »

"full-time student" in a taxation year includes an individual to whom subsection 118.6(3) applies for the purpose of computing tax payable under this Part for the year or the following taxation year.

"LLP balance"
« *solde REP* »

"LLP balance" of an individual at any time means the amount, if any, by which the total of all eligible amounts received by the individual at or before that time exceeds the total of

(a) all amounts designated under subsection (3) by the individual for taxation years that ended before that time, and

(b) all amounts each of which is included under subsection (4) or (5) in computing the individual's income for a taxation year that ended before that time.

"participation
period"
« *période de
participation* »

"participation period" of an individual means each period

(a) that begins at the beginning of a calendar year

(i) in which the individual receives an eligible amount, and

(ii) at the beginning of which the individual's LLP balance is nil; and

(b) that ends immediately before the beginning of the first subsequent calendar year at the beginning of which the individual's LLP balance is nil.

"premium"
« *prime* »

"premium" has the meaning assigned by subsection 146(1).

"qualifying
educational
program"
« *programme de
formation
admissible* »

"qualifying educational program" means a qualifying educational program (as defined in subsection 118.6(1)) at a designated educational institution (as defined in subsection 118.6(1)), except that the definition "qualifying educational program" in subsection 118.6(1) shall be read

(a) without reference to paragraphs (a) and (b) of that definition; and

(b) as if the expression "3 consecutive weeks" were "3 consecutive months".

"repayment period"
« *période de
remboursement* »

"repayment period" of an individual for a participation period of the individual in respect of a person designated under paragraph (b) of the definition "eligible amount" means the period, if any, within the participation period

(a) that begins

(i) at the beginning of the third calendar year within the participation period, if the person would not be entitled to claim an amount under subsection 118.6(2) in respect of at least three months in each of the second and third calendar years within the participation period, if that subsection were read without reference to paragraph (b) of the description of B in that subsection,

(ii) at the beginning of the fourth calendar year within the participation period, if subparagraph (i) does not apply and the person would not be entitled to claim an amount under subsection 118.6(2) in respect of at least three months in each of the third and fourth calendar years within the participation period, if that subsection were read without reference to paragraph (b) of the description of B in that subsection,

(iii) at the beginning of the fifth calendar year within the participation period, if subparagraphs (i) and (ii) do not apply and the person would not be entitled to claim an amount under subsection 118.6(2) in respect of at least three months in each of the fourth and fifth calendar years within that period, if that subsection were read without reference to paragraph (b) of the description of B in that subsection, and

(iv) in any other case, at the beginning of the sixth calendar year within the participation period; and

(b) that ends at the end of the participation period.

Rule of
application

(2) For the purpose of the definition "eligible amount" in subsection (1), a particular person is deemed to be the only person in respect of whom a particular amount was designated under paragraph (b) of that definition if

(a) an individual received the particular amount;

(b) the individual files a prescribed form with the Minister in which the particular person is specified in connection with the receipt of the particular amount;

(c) the particular amount would be an eligible amount of the individual if

(i) that definition were read without reference to paragraphs (b) and (e) of that definition, and

(ii) each reference in the portion of that definition after paragraph (d) to "designated person" were read as "individual" or "individual's spouse"; and

(d) the Minister so permits.

Repayment of
eligible amount

(3) An individual may designate a single amount for a taxation year in prescribed form filed with the individual's return of income for the year if the amount does not exceed the lesser of

(a) the total of all amounts (other than excluded premiums, repayments to which paragraph (b) of the definition "excluded withdrawal" in subsection (1) applies and amounts paid by the individual in the first 60 days of the year that can reasonably be considered to have been deducted in computing the individual's income, or designated under this subsection, for the preceding taxation year) paid by the individual in the year or within 60 days after the end of the year under a retirement savings plan that is at the end of the year or the following taxation year a registered retirement savings plan under which the individual is the annuitant, and

(b) the individual's LLP balance at the end of the year.

If portion of
eligible amount
not repaid

(4) There shall be included in computing an individual's income for a particular taxation year that begins after 2000 the amount determined by the formula

$$[(A - B - C)/(10 - D)] - E$$

where

A is

(a) nil, if

(i) the individual died or ceased to be resident in Canada in the particular year, or

(ii) the beginning of the particular year is not included in a repayment period of the individual, and

(b) in any other case, the total of all eligible amounts received by the individual in preceding taxation years (other than taxation years in participation periods of the individual that ended before the particular year);

B is

(a) nil, if the particular year is the first taxation year in a repayment period of the individual, and

(b) in any other case, the total of all amounts designated under subsection (3) by the individual for preceding taxation years (other than taxation years in participation periods of the individual that ended before the particular year);

C is the total of all amounts each of which is included under this subsection or subsection (5) in computing the individual's income for a preceding taxation year (other than a taxation year included in a participation period of the individual that ended before the particular year);

D is the lesser of nine and the number of taxation years of the individual that end in the period that

(a) begins at the beginning of the individual's last repayment period that began at or before the beginning of the particular year, and

(b) ends at the beginning of the particular year; and

E is

(a) if the particular year is the first taxation year within a repayment period of the individual, the total of the amount designated under subsection (3) by the individual for the particular year and all amounts so designated for preceding taxation years (other than taxation years in participation periods of the individual that ended before the particular year), and

(b) in any other case, the amount designated under subsection (3) by the individual for the particular year.

Ceasing residence
in Canada

(5) If at any time in a taxation year an individual ceases to be resident in Canada, there shall be included in computing the individual's income for the period in the year during which the individual was resident in Canada the amount, if any, by which

(a) the total of all amounts each of which is an eligible amount received by the individual in the year or a preceding taxation year

exceeds the total of

(b) all amounts designated under subsection (3) by the individual in respect of amounts paid not later than 60 days after that time and before the individual files a return of income for the year, and

(c) all amounts included under subsection (4) or this subsection in computing the individual's income for preceding taxation years.

Death of
individual

(6) If an individual dies at any time in a taxation year, there shall be included in computing the individual's income for the year the amount, if any, by which

(a) the individual's LLP balance immediately before that time

exceeds

(b) the amount designated under subsection (3) by the individual for the year.

Exception

(7) If a spouse of an individual was resident in Canada immediately before the individual's death at a particular time in a taxation year and the spouse and the individual's legal representatives jointly so elect in writing in the individual's return of income for the year,

(a) subsection (6) does not apply to the individual;

(b) the spouse is deemed to have received a particular eligible amount at the particular time equal to the amount that, but for this subsection, would be determined under subsection (6) in respect of the individual;

(c) subject to paragraph (d), for the purpose of applying this section after the particular time, the spouse is deemed to be the person designated under paragraph (b) of the definition "eligible amount" in subsection (1) in respect of the particular amount; and

(d) where the spouse received an eligible amount before the particular time in the spouse's participation period that included the particular time and the particular individual designated under paragraph (b) of the definition "eligible amount" in subsection (1) in respect of that eligible amount was not the spouse, for the purpose of applying this section after the particular time the particular individual is deemed to be the person designated under that paragraph in respect of the particular amount.

(2) Subsection (1) applies after 1998.

62. (1) The definition "accumulated income payment" in subsection 146.1(1) of the Act is replaced by the following:

"accumulated
income payment"
« paiement de
revenu accumulé »

"accumulated income payment" under an education savings plan means any amount paid out of the plan, other than a payment described in any of paragraphs (a) and (c) to (e) of the definition "trust", to the extent that the amount so paid exceeds the fair market value of any consideration given to the plan for the payment of the amount;

(2) The definition "trust" in subsection 146.1(1) of the Act is amended by adding the following after paragraph (c):

(c.1) the repayment of amounts under Part III.1 of the *Department of Human Resources Development Act*,

(3) Subsection 146.1(1) of the Act is amended by adding the following in alphabetical order:

"contribution"
« *cotisation* »

"contribution" into an education savings plan does not include an amount paid into the plan by the Minister of Human Resources Development under Part III.1 of the *Department of Human Resources Development Act*;

"qualified
investment"
« *placement
admissible* »

"qualified investment" for a trust governed by a registered education savings plan means

(a) an investment that would be described in any of paragraphs (a), (b), (d) and (f) to (h) of the definition "qualified investment" in section 204 if the reference in that definition to "a trust governed by a deferred profit sharing plan or revoked plan" were read as a reference to "a trust governed by a registered education savings plan",

(b) a bond, debenture, note or similar obligation of a corporation the shares of which are listed on a prescribed stock exchange in Canada,

(c) a contract for an annuity issued by a licensed annuities provider where

(i) the trust is the only person who, disregarding any subsequent transfer of the contract by the trust, is or may become entitled to any annuity payments under the contract, and

(ii) the holder of the contract has a right to surrender the contract at any time for an amount that would, if reasonable sales and administration charges were ignored, approximate the value of funds that could otherwise be applied to fund future periodic payments under the contract,

(d) an investment that was acquired by the trust before October 28, 1998, and

(e) a prescribed investment;

(4) Subsection 146.1(2) of the Act is amended by adding the following after paragraph (b):

(b.1) application for registration of the plan is made by the promoter in prescribed form containing prescribed information;

(5) The portion of paragraph 146.1(2)(d.1) of the Act before subparagraph (i) is replaced by the following:

(d.1) subject to subsection (2.2), the plan does not allow accumulated income payments under the plan, or the plan allows an accumulated income payment at a particular time only if

(6) Paragraph 146.1(2)(g.1) of the Act is replaced by the following:

(g.1) the plan does not allow for the payment of an educational assistance payment to or for an individual at any time after 1996 unless

(i) either

(A) the individual is at that time enrolled as a full-time student in a qualifying educational program at a post-secondary educational institution, or

(B) the individual is at that time enrolled as a student in a qualifying educational program at a post-secondary educational institution and has at that time a mental or physical impairment the effects of which on the individual have been certified in writing, by a person described in paragraph 118.3(1)(a.2) in relation to the individual's impairment, to be such that the individual cannot reasonably be expected to be enrolled as a full-time student, and

(ii) either

(A) the individual has been enrolled in the program during at least 13 consecutive weeks in the 12-month period before that time, or

(B) the total of the payment and all other educational assistance payments made under the plan to or for the individual in the 12-month period before that time in respect of the individual's enrolment in the program does not exceed \$5,000 or such greater amount as the Minister of Human Resources Development approves in writing with respect to the individual;

(7) Paragraph 146.1(2)(j) of the Act is amended by striking out the word "and" at the end of subparagraph (i) and by replacing subparagraph (ii) with the following:

(ii) that a contribution into the plan in respect of a beneficiary is permitted to be made only if

(A) the beneficiary had not attained 21 years of age before the time of the contribution, or

(B) the contribution is made by way of transfer from another registered education savings plan that allows more than one beneficiary at any one time, and

(iii) that an individual is permitted to become a beneficiary under the plan at any particular time only if

(A) the individual had not attained 21 years of age before the particular time, or

(B) the individual was, immediately before the particular time, a beneficiary under another registered education savings plan that allows more than one beneficiary at any one time;

(8) Subsection 146.1(2) of the Act is amended by striking out the word "and" at the end of paragraph (l), by adding the word "and" at the end of paragraph (m) and by adding the following after paragraph (m):

(n) the Minister has no reasonable basis to believe that the plan will become revocable.

(9) Section 146.1 of the Act is amended by adding the following after subsection (2):

RESP is revocable

(2.1) For the purposes of paragraphs (2)(n) and (12.1)(d), a registered education savings plan is revocable at any time after October 27, 1998 at which

(a) a trust governed by the plan acquires property that is not a qualified investment for the trust;

(b) property held by a trust governed by the plan ceases to be a qualified investment for the trust and the property is not disposed of by the trust within 60 days after that time;

(c) a trust governed by the plan begins carrying on a business; or

(d) a trustee that holds property in connection with the plan borrows money for the purposes of the plan, except where

(i) the money is borrowed for a term not exceeding 90 days,

(ii) the money is not borrowed as part of a series of loans or other transactions and repayments, and

(iii) none of the property of the trust is used as security for the borrowed money.

Waiver of
conditions for
accumulated income
payments

(2.2) The Minister may, on written application of the promoter of a registered education savings plan, waive the application of the conditions in subparagraphs (2)(d.1)(v) and (vi) in respect of the plan where a beneficiary under the plan suffers from a severe and prolonged mental impairment that prevents, or can reasonably be expected to prevent, the beneficiary from enrolling in a qualifying educational program at a post-secondary educational institution.

(10) Subsection 146.1(12.1) of the Act is amended by striking out the word "or" at the end of paragraph (b) and by adding the following after paragraph (c):

(d) a day on which a registered education savings plan is revocable, or

(e) a day on which a person fails to comply with a condition or obligation imposed under Part III.1 of the *Department of Human Resources Development Act* that applies with respect to a registered education savings plan,

(11) Subsections (1) to (3), (5) and (8) to (10) apply after 1997.

(12) Subsections (4) and (7) apply to plans entered into after 1998.

(13) Subsection (6) applies to plans entered into after February 20, 1990, except that

(a) for plans entered into before 1998, references in that subsection to "individual" shall be read as "beneficiary"; and

(b) subparagraph 146.1(2)(g.1)(ii) of the Act, as enacted by subsection (6), does not apply to plans entered into before 1999.

63. (1) The portion of subsection 150(1) of the Act before paragraph (b) is replaced by the following:

Filing returns of
income – general
rule

150. (1) Subject to subsection (1.1), a return of income that is in prescribed form and that contains prescribed information shall be filed with the Minister, without notice or demand for the return, for each taxation year of a taxpayer,

Corporations

(a) in the case of a corporation, by or on behalf of the corporation within six months after the end of the year if

(i) at any time in the year the corporation

(A) is resident in Canada,

(B) carries on business in Canada,

(C) has a taxable capital gain, or

(D) disposes of a taxable Canadian property, or

(ii) tax under this Part is, or but for a tax treaty would be, payable by the corporation for the year;

(2) Section 150 of the Act is amended by adding the following after subsection (1):

Exception

(1.1) Subsection (1) does not apply to a taxation year of a taxpayer if

(a) the taxpayer is a corporation that was a registered charity throughout the year; or

(b) the taxpayer is an individual unless

(i) tax is payable under this Part by the individual for the year,

(ii) where the individual is resident in Canada at any time in the year, the individual has a taxable capital gain or disposes of capital property in the year,

(iii) where the individual is non-resident throughout the year, the individual has a taxable capital gain or disposes of a taxable Canadian property in the year, or

(iv) at the end of the year the individual's HBP balance or LLP balance (as defined in subsection 146.01(1) or 146.02(1)) is a positive amount.

(3) Subsections (1) and (2) apply to taxation years that begin after 1998.

63.1 (1) The portion of subsection 152(3.1) of the Act before paragraph (a) is replaced by the following:

Definition of
"normal

reassessment
period"

(3.1) For the purposes of subsections (4), (4.01), (4.2), (4.3), (5) and (9), the normal reassessment period for a taxpayer in respect of a taxation year is

(2) Section 152 of the Act is amended by adding the following after subsection (8):

Alternative basis
for assessment

(9) The Minister may advance an alternative argument in support of an assessment at any time after the normal reassessment period unless, on an appeal under this Act

(a) there is relevant evidence that the taxpayer is no longer able to adduce without the leave of the court; and

(b) it is not appropriate in the circumstances for the court to order that the evidence be adduced.

(3) Subsections (1) and (2) are applicable to appeals disposed of after the day on which this Act is assented to.

64. (1) Subsection 161(6.1) of the Act is replaced by the following:

Foreign tax credit
adjustment

(6.1) Notwithstanding any other provision in this section, where the tax payable under this Part by a taxpayer for a particular taxation year is increased because of

(a) an adjustment of an income or profits tax payable by the taxpayer to the government of a country other than Canada or to the government of a state, province or other political subdivision of such a country, or

(b) a reduction in the amount of foreign tax deductible under subsection 126(1) or (2) in computing the taxpayer's tax otherwise payable under this Part for the particular year, as a result of the application of subsection 126(4.2) in respect of a share or debt obligation disposed of by the taxpayer in the taxation year following the particular year,

no interest is payable, in respect of the increase in the taxpayer's tax payable, for the period

(c) that ends 90 days after the day on which the taxpayer is first notified of the amount of the adjustment, if paragraph (a) applies, and

(d) before the date of the disposition, if paragraph (b) applies.

(2) Subsection (1) applies to the 1998 and subsequent taxation years.

65. (1) Section 162 of the Act is amended by adding the following after subsection (2):

Failure to file –
non-resident
corporation

(2.1) Notwithstanding subsections (1) and (2), if a non-resident corporation is liable to a penalty under subsection (1) or (2) for failure to file a return of income for a taxation year, the amount of the penalty is the greater of

(a) the amount computed under subsection (1) or (2), as the case may be, and

(b) an amount equal to the greater of

(i) \$100, and

(ii) \$25 times the number of days, not exceeding 100, from the day on which the return was required to be filed to the day on which the return is filed.

(2) Subsection (1) applies to taxation years that begin after 1998.

66. (1) The portion of subsection 164(6.1) of the Act before paragraph (a) is replaced by the following:

Realization of
deceased
employees' options

(6.1) Notwithstanding any other provision of this Act, if a right to acquire securities (as defined in subsection 7(7)) under an agreement in respect of which a benefit was deemed by paragraph 7(1)(e) to have been received by a taxpayer (in this subsection referred to as "the right") is exercised or disposed of by the taxpayer's legal representative within the first taxation year of the estate of the taxpayer and the representative so elects in prescribed manner and on or before a prescribed day,

(2) Subsection (1) applies to deaths that occur after February 1998.

67. (1) Paragraph 180.1(1)(a) of the Act is replaced by the following:

(a) the amount, if any, by which

(i) 3% of the individual's tax payable under Part I for the year

exceeds

(ii) the amount, if any, by which

(A) \$250

exceeds

(B) 6% of the amount, if any, by which

(I) the individual's tax payable under Part I for the year

exceeds

(II) \$8,333, and

(2) Subsection (1) applies to the 1998 and subsequent taxation years except that, in its application to the 1998 taxation year, the portion of subparagraph 180.1(1)(a)(ii) of the Act before clause (B), as enacted by subsection (1), shall be read as follows:

(ii) 50% of the amount, if any, by which

(A) the lesser of \$250 and the amount computed under subparagraph (i) for the year

exceeds

68. (1) The description of C in subsection 190.1(1.2) of the Act is replaced by the following:

C is the number of days in the year that are after February 27, 1995 and before November 1999.

(2) Subsection (1) applies to taxation years that end after February 27, 1995.

69. (1) The formula in subsection 204.82(2.1) of the Act is replaced by the following:

$$A - B - C$$

(2) Paragraphs (a) and (b) of the description of A in subsection 204.82(2.1) of the Act are replaced by the following:

(a) the amount, if any, by which the amount of the shareholders' equity in the corporation at the end of the preceding taxation year exceeds the specified adjustment in respect of the shareholders' equity in the corporation at the end of that year, and

(b) the amount, if any, by which the amount of the shareholders' equity in the corporation at the end of the particular taxation year exceeds the specified adjustment in respect of the shareholders' equity in the corporation at the end of the particular year;

(3) Subsection 204.82(2.1) of the Act is amended by striking out the word "and" at the end of the description of A, by adding the word "and" at the end of the description of B and by adding the following after the description of B:

C is 60% of the amount, if any, by which

(a) the total of all amounts each of which is a tax or penalty under subsection (3) or (4), or a prescribed tax or penalty, paid before that time by the corporation (other than the portion, if any, of that tax or penalty the liability for which resulted in a reduction in the amount of the shareholders' equity at the end of any preceding taxation year)

exceeds

(b) the total of all amounts each of which is a refund before that time of any portion of the total described in paragraph (a).

(4) The portion of subsection 204.82(2.2) of the Act before paragraph (a) is replaced by the following:

Investment
shortfall

(2.2) For the purpose of this subsection and for the purpose of computing a corporation's investment shortfall under subsection (2.1) at any time in a taxation year (in this subsection referred to as the "relevant year"),

(5) Subsection 204.82(2.2) of the Act is amended by striking out the word "and" at the end of paragraph (c) and by adding the following after paragraph (c):

(c.1) the specified adjustment in respect of shareholders' equity in the corporation at the end of a taxation year is the amount determined by the formula

$$(A \times (B/C)) - D$$

where

A is the shareholders' equity at the end of the year,

B is the total of

(i) the fair market value at the end of the year of all Class A shares issued by it before March 6, 1996 and more than five years before the end of the year,

(ii) the fair market value at the end of the year of all Class A shares issued by it after March 5, 1996 and more than eight years before the end of the year,

(iii) the fair market value at the end of the year of all Class A shares issued by it in the last 60 days of the year, and

(iv) if the corporation so elects in writing filed with the Minister not more than six months after the end of the year and is not a revoked corporation at the end of the year, the fair market value at the end of the year of all shares of classes, of the capital stock of the corporation, to which clause 204.81(1)(c)(ii)(C) applies,

C is the fair market value at the end of the year of all shares issued by it, and

D is the amount by which the shareholders' equity in the corporation at the end of the year has been reduced to take into account the expected subsequent redemption of shares of the capital stock of the corporation; and

(6) Subsections (1) to (5) apply to taxation years that begin after 1997.

70. (1) Subsection 204.83(1) of the Act is replaced by the following:

Refunds for
federally
registered LSVCCs

204.83 (1) If a corporation is required, under subsections 204.82(3) and (4), to pay a tax and a penalty under this Part for a taxation year, it has no monthly deficiency throughout any period of 12 consecutive months (in this section referred to as the "second period") that begins after the 12-month period in respect of which the tax became payable (in this section referred to as the "first period") and it so requests in an application filed with the Minister in prescribed form, the Minister shall refund to it an amount equal to the total of the amount that was paid under subsection 204.82(3) and 80% of the amount that was paid under subsection 204.82(4) in respect of the first period on or before the later of

(a) the 30th day after receiving the application, and

(b) the 60th day after the end of the second period.

(2) Subsection (1) applies on and after the day on which this Act is assented to, except that for the purpose of subsection 204.83(1) of the Act, as enacted by subsection (1), applications received by the Minister of National Revenue before that day are deemed to have been received on that day.

71. (1) Paragraph 204.9(4)(b) of the Act is replaced by the following:

(b) except for the purpose of applying this subsection to a replacement of a beneficiary after the particular time, applying subsection (5) to a distribution after the particular time and applying subsection 204.91(3) to events after the particular time, paragraph (a) does not apply as a consequence of the replacement at the particular time of the former beneficiary if

(i) the new beneficiary had not attained 21 years of age before the particular time and a parent of the new beneficiary was a parent of the former beneficiary, or

(ii) both beneficiaries were connected by blood relationship or adoption to an original subscriber under the plan and neither had attained 21 years of age before the particular time; and

(2) Subsection (1) applies to replacements of beneficiaries that occur after 1997.

72. (1) The formula in subsection 204.94(2) of the Act is replaced by the following:

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

(2) Paragraph (b) of the description of C in subsection 204.94(2) of the Act is replaced by the following:

(b) the amount, if any, by which \$50,000 exceeds the total of all amounts each of which is an amount determined under paragraph (a) in respect of the person for a preceding taxation year.

(3) Subsection 204.94(2) of the Act is amended by striking out the word "and" at the end of the description of B, by adding the word "and" at the end of the description of C and by adding the following after the description of C:

D is

(a) where a tax, similar to the tax provided under this Part, is payable by the person for the year under a law of the province of Quebec, 12%, and

(b) in any other case, 20%.

(4) Subsections (1) and (3) apply to the 1998 and subsequent taxation years.

(5) Subsection (2) applies to the 1999 and subsequent taxation years.

73. (1) Section 207.1 of the Act is amended by adding the following after subsection (2):

Tax payable by
trust under
registered
education savings
plan

(3) Every trust governed by a registered education savings plan shall, in respect of any month, pay a tax under this Part equal to 1% of the total of all amounts each of which is the fair market value of a property, at the time it was acquired by the trust, that

(a) is not a qualified investment (as defined in subsection 146.1(1)) for the trust; and

(b) is held by the trust at the end of the month.

(2) Subsection (1) applies to the 1999 and subsequent taxation years.

74. (1) Section 207.3 of the Act is replaced by the following:

Tax payable by
institution or
public authority

207.3 Every institution or public authority that, at any time in a year, disposes of an object within 10 years after the object became an object described in subparagraph 39(1)(a)(i.1) shall pay a tax under this Part, in respect of the year, equal to 30% of the object's fair market value at that time, unless the disposition was made to another institution or public authority that was, at that time, designated under subsection 32(2) of the *Cultural Property Export and Import Act* either generally or for a specified purpose related to that object.

(2) Subsection (1) applies to dispositions made after February 23, 1998.

75. (1) Subparagraph 212(14)(c)(ii) of the Act is replaced by the following:

(ii) a trust or corporation that is operated exclusively to administer or provide superannuation, pension, retirement or employee benefits, or

(2) Subsection (1) applies to applications for certificates of exemption under subsection 212(14) of the Act made after February 23, 1998 except that, with respect to applications submitted before 1999, the reference to "operated exclusively" in subparagraph 212(14)(c)(ii) of the Act, as enacted by subsection (1), shall be read as a reference to "operated principally".

76. (1) The portion of subsection 212.1(1) of the Act before paragraph (a) is replaced by the following:

Non-arm's length
sales of shares by
non-residents

212.1 (1) If a non-resident person, a designated partnership or a non-resident-owned investment corporation (in this section referred to as the "non-resident person") disposes of shares (in this section referred to as the "subject shares") of any class of the capital stock of a corporation resident in Canada (in this section referred to as the "subject corporation") to another corporation resident in Canada (in this section referred to as the "purchaser corporation") with which the non-resident person does not (otherwise than because of a right referred to in paragraph 251(5)(b)) deal at arm's length and, immediately after the disposition, the subject corporation is connected (within the meaning that would be assigned by subsection 186(4) if the references in that subsection to "payer corporation" and "particular corporation" were read as "subject corporation" and "purchaser corporation", respectively) with the purchaser corporation,

(2) Paragraph 212.1(3)(b) of the Act is amended by striking out the word "or" at the end of subparagraph (ii), by adding the word "or" at the end of subparagraph (iii) and by adding the following after subparagraph (iii):

(iv) a partnership of which the taxpayer or a person described in one of paragraphs (i) to (iii) is a majority interest partner or a member of a majority interest group of partners (as defined in subsection 251.1(3))

(3) Subsection 212.1(3) of the Act is amended by striking out the word "and" at the end of paragraph (c) and by adding the following after paragraph (d):

(e) a "designated partnership" means a partnership of which either a majority interest partner or every member of a majority interest group of partners (as defined in subsection 251.1(3)) is a non-resident person or a non-resident-owned investment corporation; and

(f) in this subsection, a person includes a partnership.

(4) Subsections (1) to (3) apply after February 23, 1998.

77. (1) Section 215 of the Act is amended by adding the following after subsection (1):

Exception –
corporate
immigration

(1.1) Subsection (1) does not apply in respect of a dividend deemed to be paid under paragraph 128.1(1)(c.1) by a corporation to a non-resident corporation with which the corporation was dealing at arm's length.

(2) Subsection (1) applies after February 23, 1998.

78. Subsection 220(3.21) of the Act is replaced by the following:

Designations and
allocations

(3.21) For the purpose of subsection (3.2),

(a) a designation in any form prescribed for the purpose of paragraph 80(2)(i) or any of subsections 80(5) to (11) or 80.03(7) is deemed to be an election under a prescribed provision of this Act; and

(b) a designation or allocation under subsection 132.11(6) is deemed to be an election under a prescribed provision of this Act.

79. (1) Subsection 247(7) of the Act is replaced by the following:

Exclusion for
loans to certain
controlled foreign
affiliates

(7) Where, in a taxation year of a corporation resident in Canada, a non-resident person owes an amount to the corporation, the non-resident person is a controlled foreign affiliate of the corporation for the purpose of section 17 throughout the period in the year during which the amount is owing and it is established that the amount owing is an amount owing described in paragraph 17(8)(a) or (b), subsection (2) does not apply to adjust the amount of interest paid, payable or accruing in the year on the amount owing.

(2) Subsection (1) applies to taxation years that begin after February 23, 1998.

80. (1) Paragraph (c) of the definition "home relocation loan" in subsection 248(1) of the Act is replaced by the following:

(c) the loan is received in the circumstances described in subsection 80.4(1), or would have been so received if subsection 80.4(1.1) had applied to the loan at the time it was received, and

(2) Subparagraphs (e)(iv) and (v) of the definition "income bond" or "income debenture" in subsection 248(1) of the Act are replaced by the following:

(iv) at a particular time a specified financial institution (or a partnership or trust of which a specified financial institution or a person related to the institution is a member or beneficiary) acquires a bond or debenture that

(A) was issued before November 17, 1978 or under an established agreement,

(B) was issued to a person other than a corporation that was, at the time of issue,

(I) described in any of paragraphs (a) to (e) of the definition "specified financial institution", or

(II) a corporation that was controlled by one or more corporations described in subclause (I) and, for the purpose of this subclause, one corporation is controlled by another corporation if more than 50% of its issued share capital (having full voting rights under all circumstances) belongs to the other corporation, to persons with whom the other corporation does not deal at arm's length, or to the other corporation and persons with whom the other corporation does not deal at arm's length,

(C) was acquired from a person that was, at the time the person last acquired the bond or debenture and at the particular time, a person other than a corporation described in any of paragraphs (a) to (f) of that definition, and

(D) was acquired otherwise than under an agreement in writing made before October 24, 1979, or

(v) at a particular time after November 12, 1981, a specified financial institution (or a partnership or trust of which a specified financial institution or a person related to the institution is a member or beneficiary) acquires a bond or debenture that

(A) was not a bond or debenture referred to in paragraph (c),

(B) was acquired from a person that was, at the particular time, a corporation described in any of paragraphs (a) to (f) of the definition "specified financial institution", and

(C) was acquired subject to or conditional on a guarantee agreement (within the meaning that would be assigned by subsection 112(2.2) if the reference in that subsection to a "share" were read as a reference to an "income bond" or "income debenture") that was entered into after November 12, 1981,

(3) Paragraph (c) of the definition "private health services plan" in subsection 248(1) of the Act is replaced by the following:

(c) a law of a province that establishes a health care insurance plan as defined in section 2 of the *Canada Health Act*, or

(4) The definition "restricted financial institution" in subsection 248(1) of the Act is amended by striking out the word "or" at the end of paragraph (e) and by replacing paragraph (f) with the following:

(e.1) a corporation described in paragraph (g) of the definition "financial institution" in subsection 181(1), or

(f) a corporation that is controlled by one or more corporations described in any of paragraphs (a) to (e.1);

(5) The portion of the definition "specified financial institution" in subsection 248(1) of the Act before paragraph (a) is replaced by the following:

"specified
financial
institution"
« *institution
financière
déterminée* »

"specified financial institution", at any time, means

(6) Paragraphs (f) and (g) of the definition "specified financial institution" in subsection 248(1) of the Act are replaced by the following:

(e.1) a corporation described in paragraph (g) of the definition "financial institution" in subsection 181(1),

(f) a corporation that is controlled by one or more corporations described in any of paragraphs (a) to (e.1) and, for the purpose of this paragraph, one corporation is controlled by another corporation if more than 50% of its issued share capital (having full voting rights under all circumstances) belongs to the other corporation, to persons with whom the other corporation does not deal at arm's length, or to the other corporation and persons with whom the other corporation does not deal at arm's length, or

(g) a corporation that is related to a particular corporation described in any of paragraphs (a) to (f), other than a particular corporation described in paragraph (e) or (e.1) the principal business of which is the factoring of trade accounts receivable that

(i) the particular corporation acquired from a related person,

(ii) arose in the course of an active business carried on by a person (in this paragraph referred to as the "business entity") related at that time to the particular corporation, and

(iii) at no particular time before that time were held by a person other than a person who was related to the business entity;

(7) The definition "specified future tax consequence" in subsection 248(1) of the Act is amended by striking out the word "and" at the end of paragraph (a), by adding the word "and" at the end of paragraph (b) and by adding the following after paragraph (b):

(c) the consequence of an adjustment or a reduction described in subsection 161(6.1);

(8) The portion of the definition "taxable Canadian property" in subsection 248(1) of the Act before paragraph (a) is replaced by the following:

"taxable Canadian
property"
« *bien canadien
imposable* »

"taxable Canadian property" has the meaning assigned by subsection 115(1) except that, for the purposes only of sections 2, 128.1 and 150, the expression "taxable Canadian property" includes

(9) Subparagraph (b)(i) of the definition "term preferred share" in subsection 248(1) of the Act is replaced by the following:

(i) a corporation described in any of paragraphs (a) to (e.1) of the definition "specified financial institution",

(10) Subparagraph (h)(iv) of the definition "term preferred share" in subsection 248(1) of the Act is replaced by the following:

(iv) at a particular time after October 23, 1979 and before November 13, 1981, a specified financial institution (or a partnership or trust of which a specified financial institution or a person related to the institution is a member or beneficiary) acquired a share that

(A) was issued before November 17, 1978 or under an established agreement,

(B) was issued to a person other than a corporation that was, at the time of issue,

(I) described in any of paragraphs (a) to (e) of the definition "specified financial institution", or

(II) a corporation that was controlled by one or more corporations described in subclause (I) and, for the purpose of this subclause, one corporation is controlled by another corporation if more than 50% of its issued share capital (having full voting rights under all circumstances) belongs to the other corporation, to persons with whom the other corporation does not deal at arm's length, or to the other corporation and persons with whom the other corporation does not deal at arm's length,

(C) was acquired from a person that was, at the particular time, a person other than a corporation described in subclause (B)(I) or (II), and

(D) was acquired otherwise than under an agreement in writing made before October 24, 1979,

(11) Subparagraph (h)(vi) of the definition "term preferred share" in subsection 248(1) of the Act is replaced by the following:

(vi) at a particular time after November 12, 1981, a specified financial institution (or a partnership or trust of which a specified financial institution or a person related to the institution is a member or

beneficiary) acquired a share (other than a share referred to in paragraph (e)) that

(A) was issued before November 13, 1981 or under a specified agreement,

(B) was acquired from a partnership or person, other than a person that was, at the particular time, a corporation described in any of paragraphs (a) to (f) of the definition "specified financial institution" in this subsection,

(C) was acquired in an acquisition that was not subject to nor conditional on a guarantee agreement, within the meaning assigned by subsection 112(2.2), entered into after November 12, 1981, and

(D) was acquired otherwise than under an agreement in writing made before October 24, 1979 or a specified agreement,

(12) Subsection 248(1) of the Act is amended by adding the following in alphabetical order:

"eligible
relocation"
« *réinstallation*
admissible »

"eligible relocation" means a relocation of a taxpayer where

(a) the relocation occurs to enable the taxpayer

(i) to carry on a business or to be employed at a location in Canada (in section 62 and this subsection referred to as "the new work location"), or

(ii) to be a student in full-time attendance enrolled in a program at a post-secondary level at a location of a university, college or other educational institution (in section 62 and in this subsection referred to as "the new work location"),

(b) both the residence at which the taxpayer ordinarily resided before the relocation (in section 62 and this subsection referred to as "the old residence") and the residence at which the taxpayer ordinarily resided after the relocation (in section 62 and this subsection referred to as "the new residence") are in Canada, and

(c) the distance between the old residence and the new work location is not less than 40 kilometres greater than the distance between the new residence and the new work location

except that, in applying subsections 6(19) to (23) and section 62 in respect of a relocation of a taxpayer who is absent from but resident in Canada, this definition shall be read without reference to the words "in Canada" in subparagraph (a)(i), and without reference to paragraph (b);

"tax treaty"
« *traité fiscal* »

"tax treaty" with a country at any time means a comprehensive agreement or convention for the elimination of double taxation on income, between the Government of Canada and the government of the country, which has the force of law in Canada at that time;

"treaty-protected
business"
« *entreprise
protégée par
traité* »

"treaty-protected business" of a taxpayer at any time means a business in respect of which any income of the taxpayer for a period that includes that time would, because of a tax treaty with another country, be exempt from tax under Part I;

"treaty-protected
property"
« *bien protégé par
traité* »

"treaty-protected property" of a taxpayer at any time means property any income or gain from the disposition of which by the taxpayer at that time would, because of a tax treaty with another country, be exempt from tax under Part I;

(13) Subsection (1) applies after February 23, 1998.

(14) Subsections (2), (4) and (8) to (10) apply to taxation years that begin after 1998 except that, in the application of subsection (2) to a bond or debenture acquired from a corporation that last acquired the bond or debenture in a taxation year that began before 1999,

(a) the expression "at the time the person last acquired the bond or debenture and at the particular time, a person other than a corporation described in any of paragraphs (a) to (f) of that definition" in clause (e)(iv)(C) of the definition "income bond" or "income debenture" in subsection 248(1) of the Act, as enacted by subsection (2), shall be read as "at the time the person last acquired the bond or debenture, a corporation described in subclause (B)(I) or (II), and at the particular time, a corporation described in any of paragraphs (a) to (f) of that definition"; and

(b) the expression "a corporation described in any of paragraphs (a) to (f) of the definition" in clause (e)(v)(B) of the definition "income bond" or "income debenture" in subsection 248(1) of the Act, as enacted by subsection (2), shall be read as "a corporation described in subclause (iv)(B)(I) or (II) of the definition".

(15) Subsection (3) is deemed to have come into force on April 1, 1996.

(16) Subsections (5) and (6) apply for the purpose of determining the status of a particular corporation as a specified financial institution, for all purposes of the Act, for taxation years of the particular corporation that begin after 1998.

(17) Subsection (7) and the definitions "tax treaty", "treaty-protected business" and "treaty-protected property" in subsection 248(1) of the Act, as enacted by subsection (12), apply to the 1998 and subsequent taxation years.

(18) Subsection (11) applies to taxation years that begin after 1998 except that, in its application to a share acquired from a corporation that last acquired the share in a taxation year that began before 1999, the expression "described in any of paragraphs (a) to (f) of the definition "specified financial institution" in this subsection," in clause (h)(vi)(B) of the definition "term preferred share" in subsection 248(1) of the Act, as enacted by subsection (11), shall be read as "described in subclause (iv)(B)(I) or (II)".

(19) The definition "eligible relocation" in subsection 248(1) of the Act, as enacted by subsection (12), applies to all taxation years.

81. (1) Subparagraph 249.1(1)(b)(i) of the Act is replaced by the following:

(i) an individual (other than an individual to whom section 149 or 149.1 applies or a testamentary trust),

(i.1) a fiscal period of an *inter vivos* trust (other than a fiscal period to which paragraph 132.11(1)(c) applies),

(2) Subsection (1) applies to fiscal periods that begin after December 15, 1997.

82. (1) Paragraph 250(1)(e) of the Act is repealed.

(2) Paragraph 250(1)(f) of the Act is replaced by the following:

(f) was at any time in the year a child of, and dependent for support on, an individual to whom paragraph (b), (c), (d) or (d.1) applies and the person's income for the year did not exceed the total of \$500 and the amount used under paragraph (c) of the description of B in subsection 118(1) for the year;

(3) Subsection 250(1) of the Act is amended by striking out the word "or" at the end of paragraph (e), by adding the word "or" at the end of paragraph (f) and by adding the following after paragraph (f):

(g) was at any time in the year, under an agreement or a convention with one or more other countries that has the force of law in Canada, entitled to an exemption from an income tax otherwise payable in any of those countries in respect of income from any source (unless all or substantially all of the person's income from all sources was not so exempt), because at that time the person was related to or a member of the family of an individual (other than a trust) who was resident in Canada.

(4) Subsection 250(5) of the Act is replaced by the following:

Deemed
non-resident

(5) Notwithstanding any other provision of this Act, a person is deemed not to be resident in Canada at a time if, at that time, the person would, but for this subsection and any tax treaty, be resident in Canada for the purposes of this Act but is, under a tax treaty with another country, resident in the other country and not resident in Canada.

(5) Subsection (1) applies after February 23, 1998 except that, where

(a) any person would, but for paragraph 250(1)(e) of the Act,

(i) have been non-resident at any time before February 24, 1998, and

(ii) not have become resident in Canada after that time and before February 24, 1998, and

(b) the person does not elect in writing filed with the Minister of National Revenue with the person's return of income under Part I of the Act for the 1998 taxation year to have subsection (1) apply after February 23, 1998,

subsection (1) does not apply in respect of the person before the first time after February 23, 1998 that the person would, but for paragraph 250(1)(e) of the Act, cease to be resident in Canada.

(6) Subsection (2) applies to the 1998 and subsequent taxation years.

(7) Subsection (3) applies after February 23, 1998.

(8) Subsection (4) applies after February 24, 1998 except that, if on that day an individual was, under a tax treaty (as defined in subsection 248(1) of the Act, as amended by this Act), resident in another country, subsection (4) does not apply to the individual until the first time after February 24, 1998 at which the individual becomes, under a tax treaty with a country other than Canada, resident in the other country.

PART 2

UNITED STATES TAX REFUNDS — SOCIAL SECURITY

Definitions

83. (1) The definitions in this subsection apply in this Part.

"Convention"
« *Convention* »

"Convention" has the meaning assigned by section 2 of the *Canada-United States Tax Convention Act, 1984*.

"creditable United
States tax"
« *impôt des États-
Unis imputable* »

"creditable United States tax" of an individual for a taxation year means an amount

(a) that was paid to the government of the United States by or on behalf of the individual, at a time when the individual was resident in Canada, on account of United States tax on the individual's United States social security benefits for the year;

(b) that would have been so payable to that government if the Convention had not been amended by the Protocol signed at Ottawa on July 29, 1997; and

(c) that is refundable by that government under the terms of the Convention.

"United States
social security
benefits"
« *prestations
de sécurité
sociale des
États-Unis* »

"United States social security benefits" of an individual for a particular taxation year includes

(a) benefits of the United States Social Security Administration, and

(b) tier 1 railroad benefits of the United States Railroad Retirement Board

paid to or for the benefit of the individual in the particular year (but does not include unemployment benefits) and, for the purpose of this definition, a benefit paid in a taxation year for the following taxation year is deemed to have been paid in that following year.

Additional Amount

(2) Each individual who has paid creditable United States tax for a taxation year is deemed to have paid the amount of \$50, on the individual's balance-due day for the year, on account of the individual's tax payable under Part I of the *Income Tax Act* for the year.

Interest

(3) For the purpose of determining interest payable under the *Income Tax Act* by or to an individual, the individual's creditable United States tax for a taxation year is deemed

(a) to have been paid, on the individual's balance-due day for the year, on account of the individual's tax payable under Part I of the Act for the year; and

(b) to have been refunded to the individual on the first day on which the Minister of National Revenue, in respect of the individual's creditable United States tax,

(i) pays an amount to or for the benefit of the individual, or

(ii) applies an amount to a liability of the individual.

(4) Subsections (1) to (3) apply to the 1996 and 1997 taxation years.

PART 3

R.S., c. I-4;
R.S., c. 48 (1st
Supp.); 1991, c.
49; 1993, c. 24;
1998, c. 19

INCOME TAX CONVENTIONS INTERPRETATION ACT

1993, c. 24, s.
147(1)

84. (1) The definition "annuity" in section 5 of the *Income Tax Conventions Interpretation Act* is replaced by the following:

"annuity"
« rente »

"annuity" does not include any pension payment or any payment under a plan, arrangement or contract described in subparagraphs (a)(i) to (ix) of the definition "pension";

1993, c. 24, s.
147(1)

(2) The portion of the definition "periodic pension payment" in section 5 of the Act before paragraph (a) is replaced by the following:

"periodic pension
payment"
« *paiement
périodique de
pension* »

"periodic pension payment" means, in respect of payments that arise in Canada,
a pension payment other than

(3) Section 5 of the Act is amended by adding the following in alphabetical order:

"pension"
« *pension* »

"pension" means, in respect of payments that arise in Canada,

(a) if the convention does not include a definition "pension", a payment under any plan, arrangement or contract that is

(i) a registered pension plan,

(ii) a registered retirement savings plan,

(iii) a registered retirement income fund,

(iv) a retirement compensation arrangement,

(v) a deferred profit sharing plan,

(vi) a plan that is deemed by subsection 147(15) of the *Income Tax Act* not to be a deferred profit sharing plan,

(vii) an annuity contract purchased under a plan referred to in subparagraph (v) or (vi),

(viii) an annuity contract where the amount paid by or on behalf of an individual to acquire the contract was deductible under paragraph 60(1) of the *Income Tax Act* in computing the individual's income for any taxation year (or would have been so deductible if the individual had been resident in Canada), or

(ix) a superannuation, pension or retirement plan not otherwise referred to in this paragraph, and

(b) if the convention includes a definition "pension", a payment that is a pension for the purposes of the convention or a payment (other than a payment of social security benefits) that would be a periodic pension payment if the convention did not include a definition "pension";

(4) Subsections (1) to (3) apply with respect to amounts paid after 1996.

1993, c. 24, s.
148(1); 1998, c.
19, s. 287(1)

85. (1) Subsection 5.1(1) of the Act is repealed.

(2) Subsection (1) applies with respect to amounts paid after 1996.

86. (1) The Act is amended by adding the following after section 6.2:

Gains arising in
Canada

6.3 Except where a convention expressly otherwise provides, any amount of income, gain or loss in respect of the disposition of a property that is taxable Canadian property within the meaning assigned by the *Income Tax Act* is deemed to arise in Canada.

(2) Subsection (1) applies to dispositions that occur after February 23, 1998.

PART 4

R.S., c. O-9;
R.S., c. 34 (1st
Supp.), cc. 1, 51
(4th Supp.); 1990,
c. 39; 1991, c.
44; 1992, cc. 24,
48; 1995, c. 33;
1996, cc. 11, 18,
21, 23; 1997, c.
40; 1998, cc. 19,
21

OLD AGE SECURITY ACT

1998, c. 21, s.
105(1)

87. (1) The definition "income" in section 2 of the *Old Age Security Act* is replaced by the following:

"income"
« revenu »

"income" of a person for a calendar year means the person's income for the year, computed in accordance with the *Income Tax Act*, except that

(a) there shall be deducted from the person's income from office or employment for the year

(i) a single amount in respect of all offices and employments of that person equal to the lesser of five hundred dollars and one fifth of the person's income from office or employment for the year,

(ii) the amount of employee's premiums paid by the person during the year under the *Employment Insurance Act*, and

(iii) the amount of employee's contributions made by the person during the year under the *Canada Pension Plan* or a provincial pension plan as defined in section 3 of that Act,

(b) there shall be deducted from the person's self-employment earnings for the year the amount of contributions made in respect of those self-employed earnings by the person during the year under the *Canada Pension Plan* or a provincial pension plan as defined in section 3 of that Act, and

(c) there shall be deducted from the person's income for the year, to the extent that those amounts have been included in computing that income,

(i) the amount of any benefit under this Act and any similar payment under a law of a provincial legislature,

(ii) the amount of any death benefit under the *Canada Pension Plan* or a provincial pension plan as defined in section 3 of that Act, and

(iii) the amount of any social assistance payment made on the basis of a means, a needs or an income test by a registered charity as defined in subsection 248(1) of the *Income Tax Act* or under a program provided for by an Act of Parliament or a provincial legislature that is neither a program prescribed under the *Income Tax Act* nor a program under which the amounts referred to in subparagraph (i) are paid;

(2) The definition "income" in section 2 of the Act, as enacted by subsection (1), is amended by striking out the word "and" at the end of paragraph (b), by adding the word "and" at the end of paragraph (c) and by adding the following after paragraph (c):

(d) there shall be deducted from the person's income for the year three times the amount, if any, by which

(i) the total of any amounts that may be deducted under section 121 of the *Income Tax Act* in computing the person's tax payable for the year

exceeds

(ii) the person's "tax for the year otherwise payable under this Part" (within the meaning assigned by subsection 126(7) of the *Income Tax Act* for the purposes of paragraph 126(1)(b) of that Act) for the year;

(3) Subsection (1) applies for the purpose of determining benefits payable under the *Old Age Security Act* for months after June 1999.

(4) Subsection (2) applies for the purpose of determining benefits payable under the *Old Age Security Act* for months after June 2000.

1998, c. 21, s.
108(1)

88. (1) The portion of subsection 12(2) of the Act after paragraph (b) is replaced by the following:

minus one dollar for each full two dollars of the pensioner's monthly base income.

1998, c. 21, s.
108(3)

(2) The description of D in subsection 12(5) of the Act is replaced by the following:

D is the pensioner's monthly base income rounded, where it is not a multiple of two dollars, to the next lower multiple of two dollars.

1998, c. 21, s.
108(5)

(3) Subparagraph (ii) of the description of B in paragraph 12(6)(b) of the Act is replaced by the following:

(ii) rounded, where that product is not a multiple of four dollars, to the next higher multiple of four dollars; and

1998, c. 21, s.
116(2)

89. (1) Paragraph (b) of the description of B in the definition "residual family income" in subsection 22(1) of the Act is replaced by the following:

(b) rounded, where that product is not a multiple of four dollars, to the next higher multiple of four dollars;

1998, c. 21, s.
116(2)

(2) Paragraph (b) of the description of B in the definition "residual income of the widow" in subsection 22(1) of the Act is replaced by the following:

(b) rounded, where that product is not a multiple of four dollars, to the next higher multiple of four dollars;

1998, c. 21, s.
116(2)

(3) The definitions "rounded pension equivalent" and "rounded supplement equivalent" in subsection 22(1) of the Act are replaced by the following:

"rounded pension
equivalent"
« *valeur arrondie
de la pension* »

"rounded pension equivalent" means the pension equivalent rounded to the next higher multiple of three dollars when the pension equivalent is not a multiple of three dollars;

"rounded
supplement
equivalent"
« *valeur arrondie
du supplément* »

"rounded supplement equivalent" means the supplement equivalent rounded to the next higher multiple of one dollar when the supplement equivalent is not a multiple of one dollar;

1998, c. 21, s.
116(5)

(4) The description of D in subsection 22(2) of the Act is replaced by the following:

D is the residual family income of the pensioner and the spouse for that month rounded, where that income is not a multiple of four dollars, to the next lower multiple of four dollars.

1998, c. 21, s.
116(7)

(5) Subparagraph 22(3)(b)(ii) of the Act is replaced by the following:

(ii) rounded, where that product is not a multiple of four dollars, to the next higher multiple of four dollars,

1998, c. 21, s.
116(8)

(6) The description of E in paragraph 22(3)(b) of the Act is replaced by the following:

E is the monthly family income of the pensioner and the spouse in the current payment period rounded, where that income is not a multiple of four dollars, to the next lower multiple of four dollars; and

1998, c. 21, s.
116(9)

(7) Subparagraph 22(3)(c)(ii) of the Act is replaced by the following:

(ii) rounded, where that product is not a multiple of four dollars, to the next higher multiple of four dollars,

1998, c. 21, s.
116(10)

(8) The description of C in paragraph 22(3)(c) of the Act is replaced by the following:

C is the residual family income of the pensioner and spouse for that month rounded, where that income is not a multiple of four dollars, to the next lower multiple of four dollars.

1998, c. 21, s.
116(12)

(9) Subparagraph 22(4)(b)(ii) of the Act is replaced by the following:

(ii) rounded, where that product is not a multiple of four dollars, to the next higher multiple of four dollars,

1998, c. 21, s.
116(13)

(10) The description of E in paragraph 22(4)(b) of the Act is replaced by the following:

E is the monthly income of the widow in the current payment period rounded, where that income is not a multiple of four dollars, to the next lower multiple of four dollars; and

1998, c. 21, s.
116(14)

(11) Subparagraph 22(4)(c)(ii) of the Act is replaced by the following:

(ii) rounded, where that product is not a multiple of four dollars, to the next higher multiple of four dollars,

1998, c. 21, s.
116(15)

(12) The description of C in paragraph 22(4)(c) of the Act is replaced by the following:

C is the residual income of the widow in respect of the month rounded, where that residual income is not a multiple of two dollars, to the next lower multiple of two dollars.

PART 5

R.S., c. W-3;
R.S., c. 7 (1st
Supp.), c. 12 (2nd
Supp.), cc. 20, 37
(3rd Supp.); 1990,
cc. 39, 43; 1992,
cc. 24, 48; 1995,
cc. 17, 18; 1996,
c. 11; 1998, c. 21

WAR VETERANS ALLOWANCE ACT

90. (1) Subsection 7(1) of the *War Veterans Allowance Act* is amended by striking out the word "and" at the end of paragraph (c), by adding the word "and" at the end of paragraph (d) and by adding the following after paragraph (d):

(e) paragraph (d) of the definition "income" in section 2 of the *Old Age Security Act* does not apply.

(2) Subsection (1) comes into force on July 1, 2000.

PART 6

1997, c. 25

INCOME TAX BUDGET AMENDMENTS ACT, 1996

91. (1) Subsection 69(3) of the *Income Tax Budget Amendments Act, 1996*, chapter 25 of the Statutes of Canada, 1997, is replaced by the following:

(3) Section 233.3 of the Act, as enacted by subsection (1), applies to returns for taxation years and fiscal periods that begin after 1997, except that such a return for a taxation year or fiscal period that ends in 1998 is required to be filed on or before the later of

(a) April 30, 1999, and

(b) the day on or before which the return is otherwise required to be filed.

(3.1) Section 233.6 of the Act, as enacted by subsection (1), applies to returns for taxation years and fiscal periods that begin after 1995, except that

(a) such a return for a taxation year or fiscal period that ended in 1996, 1997 or 1998 is required to be filed on or before the later of

(i) April 30, 1998, and

(ii) the day on or before which the return is otherwise required to be filed;

(b) for taxation years and fiscal periods that began before 1998, subsection 233.6(2) of the Act shall be read without reference to paragraph 233.6(2)(c); and

(c) for returns for taxation years and fiscal periods that began after 1995 and before 1998, the reference to "specified Canadian entity" in subsection 233.6(1) of the Act shall have the meaning that would be assigned to that expression by subsection 233.3(1) of the Act, as enacted by subsection (1), if it applied for those returns.

(2) Subsection (1) is deemed to have come into force on April 25, 1997.

PART 7

1998, c. 19

INCOME TAX AMENDMENTS ACT, 1997

92. (1) Subsection 155(2) of the *Income Tax Amendments Act, 1997*, chapter 19 of the Statutes of Canada, 1998, is replaced by the following:

(2) Subparagraph 130(3)(a)(vii) of the Act is replaced by the following:

(vii) no person would have been a specified shareholder of the corporation in the year if

(A) the portion of the definition "specified shareholder" in subsection 248(1) before paragraph (a) were read as follows:

"specified shareholder" of a corporation in a taxation year means a taxpayer who owns, directly or indirectly, at any time in the year, more than 25% of the issued shares of any class of the capital stock of the corporation and, for the purposes of this definition,

(B) paragraph (a) of that definition were read as follows:

(a) a taxpayer is deemed to own each share of the capital stock of a corporation owned at that time by a person related to the taxpayer,

(C) that definition were read without reference to paragraph (d) of that definition,

and

(D) paragraph 251(2)(a) were read as follows:

(a) an individual and

(i) the individual's child (as defined in subsection 70(10)) who is under 19 years of age, or

(ii) the individual's spouse;

(2) The portion of subsection 155(4) of the Act after paragraph (a) is replaced by the following:

(b) a particular person is a specified shareholder of the corporation in the year, and

(c) the particular person

(i) was a specified shareholder of the corporation on June 20, 1996, or

(ii) both

(A) was a specified shareholder of the corporation at any time after June 20, 1996 and before August 14, 1998, and

(B) would have been a specified shareholder of the corporation on June 20, 1996 if subparagraph 130(3)(a)(vii) of the Act, as enacted by subsection (2), were read without reference to clauses (B) and (D),

subparagraph 130(3)(a)(vii) of the Act, as enacted by subsection (2), does not apply to the corporation, with respect to the particular person and persons related to the particular person, except as provided in subsections (5) to (11).

(3) Subsection 155(5) of the Act is replaced by the following:

(5) Subsection (2) applies to a corporation that was an investment corporation on June 20, 1996 for a taxation year that begins after that day if, at any time after that day and before the end of the year, a particular person described in paragraph (4)(b) in respect of the corporation for the year contributes capital to the corporation or acquires a share of the capital stock of the corporation other than by a permitted acquisition.

(4) Subsection 155(8) of the Act is repealed.

(5) Section 155 of the Act is amended by adding the following after subsection (9):

(10) At any time on or after the day of the death of a person described in paragraph (4)(c) in respect of a corporation and before the third anniversary of that day,

(a) the estate of the deceased person is deemed to be a person described in paragraphs (4)(b) and (c) who is related to each person who, throughout the period that begins at the end of June 20, 1996 and ends at the time of death, was related to the deceased person;

(b) notwithstanding subsection (7), the estate is deemed not to be a newly related person in respect of the corporation;

(c) notwithstanding subsection (11), the acquisition of shares of the corporation's capital stock by the estate from the deceased person is deemed to be a permitted acquisition; and

(d) the estate is deemed not to be a trust for the purposes of subparagraph (9)(a)(i) of this Act and paragraphs (b) and (e) of the definition "specified shareholder" in subsection 248(1) of the *Income Tax Act*.

(11) The definitions in this subsection apply in subsections (4) to (10) and this subsection.

"permitted
acquisition"
« acquisition
autorisée »

"permitted acquisition" means an acquisition by a particular person of a share of a class of the capital stock of a corporation that was

(a) held, at each particular time after June 20, 1996 and before the time at which the particular person acquired it, or

(b) issued after June 20, 1996 by the corporation as a stock dividend and held, at each particular time after the time the share was issued and before the time at which the particular person acquired it,

by the particular person or by a person who was related to the particular person throughout the period that begins at the end of June 20, 1996 and ends at the particular time if, immediately after the time at which the particular person acquires the share, the total percentage of the issued shares of that class held by the particular person and persons related to the particular person (or in the case of acquisitions before August 14, 1998, by the particular person and persons with whom the particular person did not deal at arm's length immediately after the acquisition) does not exceed the permitted percentage for the particular person in respect of that class of shares.

"permitted
percentage"
« *pourcentage
autorisé* »

"permitted percentage" for a particular person in respect of any class of shares of the capital stock of a corporation means

(a) in respect of acquisitions of shares before August 14, 1998, the greatest percentage that is the total percentage of the issued shares of a class of the capital stock of the corporation held at the end of June 20, 1996 by the particular person and persons with whom the particular person did not at that time deal at arm's length; and

(b) in any other case, the greater of

(i) the greatest percentage that is the total percentage of the issued shares of a class of the capital stock of the corporation held at the end of June 20, 1996 by the particular person and persons related to the particular person, and

(ii) the greatest percentage that is the total percentage of the issued shares of a class of the capital stock of the corporation held at the beginning of August 14, 1998 by the particular person and persons related to the particular person.

"related persons"
« *personnes liées*
»

"related persons" and persons related to each other have, for purposes other than applying the definitions "permitted acquisition" and "permitted percentage" in respect of acquisitions of shares before August 14, 1998, the meaning that would be assigned by section 251 of the Act if paragraph 251(2)(a) of the Act were read as follows:

(a) an individual and

(i) the individual's child (as defined in subsection 70(10)) who is under 19 years of age, or

(ii) the individual's spouse;

"specified
shareholder"
« *actionnaire
déterminé* »

"specified shareholder" has the meaning assigned by subparagraph 130(3)(a)(vii) of the Act, as enacted by subsection (2).

(6) Subsections (1) to (5) are deemed to have come into force on June 18, 1998.