

Notice of Ways and Means Motion to amend the Excise Tax Act, the
Federal-Provincial Fiscal Arrangements Act, the Income Tax Act,
the Debt Servicing and Reduction Account Act and related Acts

The Minister of Finance

Notice of Ways and Means Motion to amend the Excise Tax Act, the Federal-Provincial Fiscal Arrangements Act, the Income Tax Act, the Debt Servicing and Reduction Account Act and related Acts

That it is expedient to amend the Excise Tax Act, the Federal-Provincial Fiscal Arrangements Act, the Income Tax Act, the Debt Servicing and Reduction Account Act and related Acts as follows:

PART I

R.S., c. E-15;
R.S., c. 15(1st
Supp.), cc. 1, 7,
42 (2nd Supp.),
cc. 18, 28, 41, 42
(3rd Supp.), cc.
12, 47 (4th
Supp.); 1988, c.
65; 1989, c. 22;
1990, c. 45; 1991,
c. 42; 1992, cc.
1, 27, 28, 29;
1993, cc. 25, 27,
28, 38; 1994, cc.
9, 13, 21, 29, 41;
1995, cc. 5, 36,
41, 46; 1996, cc.
10, 20, 21, 23

EXCISE TAX ACT

Technical Amendments

1. (1) The definitions "charity", "hospital authority", "improvement", "mobile home", "non-profit organization", "officer", "school authority", "short-term accommodation", "university" and "used tangible personal property" in subsection 123(1) of the *Excise Tax Act* are replaced by the following:

"charity"
« *organisme de
bienfaisance* »

"charity" means a registered charity or registered Canadian amateur athletic association within the meaning assigned to those expressions by subsection 248(1) of the *Income Tax Act*, but does not include a public institution;

"hospital
authority"
« *administration
hospitalière* »

"hospital authority" means an organization that operates a public hospital and that is designated by the Minister as a hospital authority for the purposes of this Part;

"improvement"
« *améliorations* »

"improvement", in respect of property of a person, means any property or service supplied to, or goods imported by, the person for the purpose of improving the property, to the extent that the consideration paid or payable by the person for the property or service or the value of the goods is, or would be if the person were a taxpayer under the *Income Tax Act*, included in determining the cost or, in the case of property that is capital property of the person, the adjusted cost base to the person of the property for the purposes of that Act;

"mobile home"
« *maison mobile* »

"mobile home" means a building, the manufacture and assembly of which is completed or substantially completed, that is equipped with complete plumbing, electrical and heating facilities and that is designed to be moved to a site for installation on a foundation and connection to service facilities and to be occupied as a place of residence, but does not include any travel trailer, motor home, camping trailer or other vehicle or trailer designed for recreational use;

"non-profit organization"
« *organisme à but non lucratif* »

"non-profit organization" means a person (other than an individual, an estate, a trust, a charity, a public institution, a municipality or a government) that was organized and is operated solely for a purpose other than profit, no part of the income of which is payable to, or otherwise available for the personal benefit of, any proprietor, member or shareholder thereof unless the proprietor, member or shareholder is a club, a society or an association the primary purpose and function of which is the promotion of amateur athletics in Canada;

"officer"
« *cadre* »

"officer" means a person who holds an office;

"school authority"
« *administration scolaire* »

"school authority" means an organization that operates an elementary or secondary school in which it provides instruction that meets the standards of educational instruction established by the government of the province in which the school is operated;

"short-term accommodation"
« *logement provisoire* »

"short-term accommodation" means a residential complex or a residential unit that is supplied to a recipient by way of lease, licence or similar arrangement for the purpose of its occupancy by an individual as a place of residence or lodging, where the period throughout which the individual is given continuous occupancy of the complex or unit is less than one month and, for the purposes of sections 252.1, 252.2 and 252.4,

(a) includes any type of overnight shelter (other than shelter on a train, trailer, boat or structure that has means of, or is capable of being readily adapted for, self-propulsion) when supplied as part of a tour package (within the meaning assigned by subsection 163(3)) that also includes food and the services of a guide, and

(b) does not include a complex or unit when it

(i) is supplied to the recipient under a timeshare arrangement, or

(ii) is included in that part of a tour package that is not the taxable portion of the tour package (within the meaning assigned to those expressions by subsection 163(3));

"university"
« université »

"university" means a recognized degree-granting institution or an organization that operates a college affiliated with, or a research body of, such an institution;

"used tangible
personal property"
« bien meuble
corporel
d'occasion »

"used tangible personal property" means tangible personal property that has been used in Canada;

1993, c. 27, s.
10(1)

(2) Paragraphs (a) and (b) of the definition "commercial activity" in subsection 123(1) of the Act are replaced by the following:

(a) a business carried on by the person (other than a business carried on without a reasonable expectation of profit by an individual, a personal trust or a partnership, all of the members of which are individuals), except to the extent to which the business involves the making of exempt supplies by the person,

(b) an adventure or concern of the person in the nature of trade (other than an adventure or concern engaged in without a reasonable expectation of profit by an individual, a personal trust or a partnership, all of the members of which are individuals), except to the extent to which the adventure or concern involves the making of exempt supplies by the person, and

(3) Paragraph (d) of the definition "financial instrument" in subsection 123(1) of the Act is replaced by the following:

(d) an interest in a partnership, a trust or the estate of a deceased individual, or any right in respect of such an interest,

1993, c. 27, s.
10(7)

(4) Paragraphs (j) and (j.1) of the definition "financial service" in subsection 123(1) of the Act are replaced by the following:

(j) the service of investigating and recommending the compensation in satisfaction of a claim where

(i) the claim is made under a marine insurance policy, or

(ii) the claim is made under an insurance policy that is not in the nature of accident and sickness or life insurance and

(A) the service is supplied by an insurer or by a person who is licensed under the laws of a province to provide such a service, or

(B) the service is supplied to an insurer or a group of insurers by a person who would be required to be so licensed but for the fact that

the person is relieved from that requirement under the laws of a province,

(j.1) the service of providing an insurer or a person who supplies a service referred to in paragraph (j) with an appraisal of the damage caused to property, or in the case of a loss of property, the value of the property, where the supplier of the appraisal inspects the property, or in the case of a loss of the property, the last-known place where the property was situated before the loss,

(5) Paragraph (q) of the definition "financial service" in subsection 123(1) of the Act is replaced by the following:

(q) the provision, to a corporation, partnership or trust the principal activity of which is the investing of funds, of

(i) a management or administrative service, or

(ii) any other service (other than a prescribed service),

where the supplier is a person who provides management or administrative services to the corporation, partnership or trust,

1993, c.27, s.
10(10)

(6) The definition "insurance policy" in subsection 123(1) of the Act is amended by striking out the word "and" at the end of subparagraph (a)(iii) and by replacing paragraph (b) with the following:

(b) a policy or contract in the nature of accident and sickness insurance, whether the policy is issued, or the contract is entered into, by an insurer, and

(c) a bid, performance, maintenance or payment bond issued in respect of a construction contract;

(7) The portion of the definition "public college" in subsection 123(1) of the Act before paragraph (b) is replaced by the following:

"public college"
« *collège public* »

"public college" means an organization that operates a post-secondary college or post-secondary technical institute

(a) that receives from a government or a municipality funds that are paid for the purpose of assisting the organization in the ongoing provision of educational services to the general public, and

1993, c. 29, s.
10(13)

(8) The portion of the definition "residential complex" in subsection 123(1) of the Act after paragraph (e) is replaced by the following:

but does not include a building, or that part of a building, that is a hotel, a motel, an inn, a boarding house, a lodging house or other similar premises, or the land and appurtenances attributable to the building or part, where the building is not described in paragraph (c) and all or substantially all of the supplies of residential units in the building or part by way of lease, licence

or similar arrangement are, or are expected to be, for periods of continuous possession or use of less than sixty days;

1993, c. 27, s.
10(13)

(9) The portion of paragraph (c) of the definition "residential trailer park" in subsection 123(1) of the Act before subparagraph (i) is replaced by the following:

(c) are supplied, or are intended to be supplied, by way of lease, licence or similar arrangement under which continuous possession or use of a site is provided for a period of at least

1993, c. 27, s.
204 (Sch. II,
item 1(a)(F)

(10) Paragraph (b) of the definition "residential unit" in subsection 123(1) of the Act is replaced by the following:

(b) a suite or room in a hotel, a motel, an inn, a boarding house or a lodging house or in a residence for students, seniors, individuals with a disability or other individuals, or

(11) The definition "person" in subsection 123(1) of the English version of the Act is replaced by the following:

"person"
« *personne* »

"person" means an individual, a partnership, a corporation, the estate of a deceased individual, a trust, or a body that is a society, union, club, association, commission or other organization of any kind;

(12) Subsection 123(1) of the Act is amended by adding the following in alphabetical order:

"direct cost"
« *coût direct* »

"direct cost" of a supply of tangible personal property or a service means the total of all amounts each of which is the consideration paid or payable by the supplier

(a) for the property or service if it was purchased by the supplier for the purpose of making a supply by way of sale of the property or service, or

(b) for an article or material (other than capital property of the supplier) that was purchased by the supplier, to the extent that the article or material is to be incorporated into or is to form a constituent or component part of the property, or is to be consumed or expended directly in the process of manufacturing, producing, processing or packaging the property

and, for the purpose of this definition, the consideration paid or payable by a supplier for property or a service is deemed to include any tax, duty or fee that is prescribed for the purposes of section 154 or imposed under this Part and is payable by the supplier in respect of the acquisition or importation of the property or service;

"*inter vivos*
trust"
Version anglaise
seulement

"*inter vivos* trust" means a trust other than a testamentary trust;

"office"
« *charge* »

"office" has the meaning assigned by subsection 248(1) of the *Income Tax Act*, but does not include

(a) the position of trustee in bankruptcy,

(b) the position of receiver (including the position of a receiver within the meaning assigned by subsection 266(1)), or

(c) the position of trustee of a trust or personal representative of a deceased individual where the person who acts in that capacity is entitled to an amount for doing so that is included in computing, for the purposes of that Act, the person's income or, where the person is an individual, the person's income from a business;

"personal
representative"
« *représentant*
personnel »

"personal representative", of a deceased individual or the estate of a deceased individual, means the executor of the individual's will, the administrator of the estate or any person who is responsible under the appropriate law for the proper collection, administration, disposition and distribution of the assets of the estate;

"personal trust"
« *fiducie*
personnelle »

"personal trust" means

(a) a testamentary trust, or

(b) an *inter vivos* trust that is a personal trust (within the meaning assigned by subsection 248(1) of the *Income Tax Act*) all the beneficiaries (other than contingent beneficiaries) of which are individuals and all the contingent beneficiaries of which, if any, are individuals, charities or public institutions;

"public
institution"
« *institution*
publique »

"public institution" means a registered charity (within the meaning assigned by subsection 248(1) of the *Income Tax Act*) that is a school authority, a public college, a university, a hospital authority or a local authority determined under paragraph (b) of the definition "municipality" to be a municipality;

"self-contained
domestic
establishment"
« *établissement
domestique
autonome* »

"self-contained domestic establishment" has the meaning assigned by subsection 248(1) of the *Income Tax Act*;

"telecommunication
service"
« *service de
télécommunication*
»

"telecommunication service" means

(a) the service of emitting, transmitting or receiving signs, signals, writing, images or sounds or intelligence of any nature by wire, cable, radio, optical or other electromagnetic system, or by any similar technical system, or

(b) making available for such emission, transmission or reception telecommunications facilities of a person who carries on the business of supplying services referred to in paragraph (a);

"telecommunica-
tions facility"
« *installation de
télécommunication*
»

"telecommunications facility" means any facility, apparatus or other thing (including any wire, cable, radio, optical or other electromagnetic system, or any similar technical system, or any part thereof) that is used or is capable of being used for telecommunications;

"testamentary
trust"
« *fiducie
testamentaire* »

"testamentary trust" has the meaning assigned by subsection 248(1) of the *Income Tax Act*;

(13) The definitions "charity" and "non-profit organization" in subsection 123(1) of the Act, as enacted by subsection (1), and the definitions "direct cost" and "public institution" in subsection 123(1) of the Act, as enacted by subsection (12), are deemed to have come into force on January 1, 1997 except that

(a) the said definitions "charity" and "public institution" also apply in relation to any supply made before that day by a person who is on that day a public institution as defined on that day where consideration for the supply becomes due on or after that day or is paid on or after that day without having become due; and

(b) the said definition "direct cost" also applies to supplies made before that day for which consideration becomes due on or after that day or is paid on or after that day without having become due.

(14) The definitions "hospital authority", "improvement", "mobile home", "school authority", "university" and "used tangible personal property" in subsection 123(1) of the Act, as enacted by subsection (1), and subsection (2) are deemed to have come into force on April 24, 1996 except that

(a) for the purposes of section 254 of the Act, the said definition "mobile home" also applies to supplies of mobile homes made before that day for which consideration becomes due on or after that day or is paid on or after that day without having become due; and

(b) for the purposes of applying the provisions of Part IX of the Act to a supply of land (including a site in a trailer park) made by way of lease, licence or similar arrangement to the owner, lessee or person in occupation or possession of a mobile home (within the meaning assigned by subsection 123(1) of the Act, as amended by subsection (1)) for a period that begins on or before April 23, 1996 and ends after that day, the provision of the land for the part of the period that is before April 24, 1996, and the provision of the land for the remainder of the period, are each deemed to be a separate supply and the supply of the land for the remainder of the period is deemed to be made on April 24, 1996.

(15) The definitions "officer" and "short-term accommodation" in subsection 123(1) of the Act, as enacted by subsection (1), subsections (3), (6) and (11) and the definitions "inter vivos trust", "office", "personal representative", "personal trust", "self-contained domestic establishment" and "testamentary trust" in subsection 123(1) of the Act, as enacted by subsection (12), are deemed to have come into force on December 17, 1990, except that

(a) in applying the definition "short-term accommodation",

(i) that definition shall be read without reference to "continuous" with respect to supplies made before September 15, 1992, and

(ii) subparagraph (b)(i) of that definition does not apply in respect of any rebate under section 252.1 or 252.4 of the Act for which an application (other than an application deemed under paragraph 296(5)(a) of the Act to have been filed as a result of an assessment made after April 23, 1996) was received by the Minister of National Revenue before April 23, 1996; and

(b) in applying the definition "personal trust",

(i) that definition shall be read without reference to "that is a personal trust (within the meaning assigned by subsection 248(1) of the *Income Tax Act*)" in relation to supplies made on or before April 23, 1996, and

(ii) the reference in that definition to "individuals, charities or public institutions" shall be read as a reference to "individuals or charities" in relation to supplies made before January 1, 1997.

(16) Paragraph (j) of the definition "financial service" in subsection 123(1) of the Act, as enacted by subsection (4), applies to

(a) any supply for which consideration becomes due after April 23, 1996 or is paid after that day without having become due; and

(b) any supply for which all of the consideration became due or was paid on or before that day unless

(i) the supplier did not, on or before that day, charge or collect any amount as or on account of tax under Part IX of the Act in respect of the supply, or

(ii) the supplier charged or collected an amount as or on account of tax under that Part in respect of the supply and, before that day, the Minister of National Revenue received an application under subsection 261(1) of the Act for a rebate in respect of that amount or a return in which the supplier claimed the amount as a deduction in respect of an adjustment, refund or credit of the amount under subsection 232(1) of the Act that was not deemed to have been so claimed under paragraph 296(5)(a) of the Act as a result of an assessment made after that day

and, with respect to supplies for which all of the consideration became due or was paid on or before that day, paragraph (j) shall be read without reference to clause (ii)(B) of that paragraph.

(17) Paragraph (j.1) of the definition "financial service" in subsection 123(1) of the Act, as enacted by subsection (4), applies to

(a) any supply for which consideration becomes due after April 23, 1996 or is paid after that day without having become due; and

(b) any supply for which all of the consideration became due or was paid on or before that day where

(i) the supplier did not, on or before that day, charge or collect any amount as or on account of tax under Part IX of the Act in respect of the supply, or

(ii) the supplier charged or collected an amount as or on account of tax under that Part in respect of the supply and, before that day, the Minister of National Revenue received an application under subsection 261(1) of the Act for a rebate in respect of that amount or a return in which the supplier claimed a deduction in respect of an adjustment refund or credit of the amount under subsection 232(1) of the Act that was not deemed to have been so claimed under paragraph 296(5)(a) of the Act as a result of an assessment made after that day

and, with respect to services provided before October 1992, paragraph (j.1) shall be read as follows:

(j.1) the service of providing an insurer or a person who supplies a service referred to in paragraph (j) with an appraisal of the damage, other than loss, caused to property,

(18) Subsection (5) is deemed to have come into force on December 17, 1990 but does not apply to any supply in respect of which the supplier did not, on or before December 7, 1994, charge or collect any amount as or on account of tax under Part IX of the Act.

(19) Subsection (7) applies

(a) for the purpose of determining any rebate under section 259 of the Act for which an application is received by the Minister of National Revenue on or after April 23, 1996 or is deemed under paragraph 296(5)(a) of the Act to have been filed as a result of an assessment made after that day; and

(b) for all other purposes after 1996.

(20) Except for the purpose of determining any amount (other than an amount deemed under paragraph 296(5)(a) of the Act to have been claimed as a result of an assessment made after April 23, 1996) that is claimed as a deduction, in respect of any adjustment, refund or credit under subsection 232(1) of the Act, in a return under Division V of Part IX of the Act received by the Minister of

National Revenue before April 23, 1996 or that is claimed in an application under Division VI of that Part received by the Minister before that day,

(a) subsection (8) is deemed to have come into force on September 30, 1992; and

(b) paragraph (f) of the definition "residential complex" in subsection 123(1) of the Act as it read before September 30, 1992 shall, in its application to any supply the agreement for which was entered into after September 14, 1992 and before September 30, 1992, be read as follows:

(f) all or substantially all of the supplies of residential units in the building by way of lease, licence or similar arrangement are, or are expected to be, for periods of continuous possession or use of less than sixty days;

(21) Subsection (9) is deemed to have come into force on September 15, 1992 but does not apply for the purpose of determining any amount claimed (other than an amount deemed under paragraph 296(5)(a) of the Act to have been claimed as a result of an assessment made after April 23, 1996)

(a) in an application under Division VI of Part IX of the Act received by the Minister of National Revenue before April 23, 1996; or

(b) as a deduction, in respect of any adjustment, refund or credit under subsection 232(1) of the Act, in a return under Division V of that Part received by the Minister before that day.

(22) The definitions "telecommunication service" and "telecommunications facility" in subsection 123(1) of the Act, as enacted by subsection (12), apply in relation to supplies made after April 23, 1996.

2. (1) Subsection 132(1) of the Act is amended by striking out the word "or" at the end of paragraph (b), by adding the word "or" at the end of paragraph (c) and by adding the following after paragraph (c):

(d) in the case of an individual, if the individual is deemed under any of paragraphs 250(1)(b) to (f) of the *Income Tax Act* to be resident in Canada at that time.

(2) Subsection (1) applies after April 23, 1996.

1990, c. 45, s.
12(1)

3. (1) The portion of section 135 of the Act before paragraph (a) and paragraphs 135(a) and (b) are replaced by the following:

Sponsorship of
public sector
bodies

135. For the purposes of this Part, where a public sector body makes

(a) a supply of a service, or

(b) a supply by way of licence of the use of a copyright, trade-mark, trade-name or other similar property of the body,

(2) Subsection (1) applies to supplies made after September 1992.

1993, c. 27, s.
15(1)

4. (1) Paragraphs 136(2)(a) and (b) of the Act are replaced by the following:

(a) real property that is

(i) a residential complex,

(ii) land, a building or part of a building that forms or is reasonably expected to form part of a residential complex, or

(iii) a residential trailer park, and

(b) other real property that is not part of the property referred to in paragraph (a),

(2) Subsection (1) is deemed to have come into force on December 17, 1990.

1994, c. 9, s.
4(1)

5. (1) Paragraph 141.01(1)(a) of the Act is replaced by the following:

(a) a business of the person;

(2) Section 141.01 of the Act is amended by adding the following after subsection (1):

Meaning of
"consideration"

(1.1) In subsections (1.2), (2) and (3), "consideration" does not include nominal consideration.

Grants and
subsidies

(1.2) Where a registrant receives an amount that is not consideration for a supply and is a grant, subsidy, forgivable loan or other form of assistance provided by a person who is

(a) a government, a municipality or a band (within the meaning assigned by section 2 of the *Indian Act*),

(b) a corporation that is controlled by a person referred to in paragraph (a) and one of the main purposes of which is to provide such assistance, or

(c) a trust, board, commission or other body that is established by a person referred to in paragraph (a) or (b) and one of the main purposes of which is to provide such assistance,

and the assistance can reasonably be considered to be provided for the purpose of funding an activity of the registrant that involves the making of taxable supplies for no consideration, the amount is, for the purposes of this section, deemed to be consideration for those supplies.

1994, c. 9, s.
4(1)

(3) Paragraph 141.01(2)(a) of the Act is replaced by the following:

(a) for consumption or use in the course of commercial activities of the person, to the extent that the property or service is acquired or imported by the person for the purpose of making taxable supplies for consideration in the course of that endeavour; and

1994, c. 9, s.
4(1)

(4) Subparagraph 141.01(2)(b)(i) of the Act is replaced by the following:

(i) for the purpose of making supplies in the course of that endeavour that are not taxable supplies made for consideration, or

1994, c. 9, s.
4(1)

(5) Paragraph 141.01(3)(a) of the Act is replaced by the following:

(a) in the course of commercial activities of the person, to the extent that the consumption or use is for the purpose of making taxable supplies for consideration in the course of that endeavour; and

1994, c. 9, s.
4(1)

(6) Subparagraph 141.01(3)(b)(i) of the Act is replaced by the following:

(i) for the purpose of making supplies in the course of that endeavour that are not taxable supplies made for consideration, or

1994, c. 9, s.
4(1)

(7) Paragraphs 141.01(5)(a) and (b) of the Act are replaced by the following:

(a) the extent to which properties or services are acquired or imported by the person for the purpose of making taxable supplies for consideration or for other purposes, and

(b) the extent to which the consumption or use of properties or services is for the purpose of making taxable supplies for consideration or for other purposes,

(8) Subsection (1) is deemed to have come into force on April 24, 1996.

(9) Subsections (2) to (7) are deemed to have come into force on December 17, 1990.

1990, c. 45, s.
12(1)

6. (1) Subparagraph 142(1)(c)(i) of the Act is replaced by the following:

(i) the property may be used in whole or in part in Canada, or

1990, c. 45, s.
12(1)

(2) Paragraph 142(1)(e) of the Act is repealed.

1990, c. 45, s.
12(1)

(3) Paragraph 142(2)(e) of the Act is repealed.

(4) Subsections (1) to (3) apply to supplies made after April 23, 1996.

7. (1) The Act is amended by adding the following after section 142:

Billing location

142.1 (1) For the purposes of this section, the billing location for a telecommunication service supplied to a recipient is in Canada if

(a) where the consideration payable for the service is charged or applied to an account that the recipient has with a person who carries on the business of supplying telecommunication services and the account relates to a telecommunications facility that is used or is available for use by the recipient to obtain telecommunication services, that telecommunications facility is ordinarily located in Canada; and

(b) in any other case, the telecommunications facility used to initiate the service is located in Canada.

Place of supply of
telecommunication
service

(2) Notwithstanding section 142 and subject to section 143, for the purposes of this Part, a supply of a telecommunication service is deemed to be made in Canada where

(a) in the case of a telecommunication service of making telecommunications facilities available, the facilities or any part thereof are located in Canada; and

(b) in any other case,

(i) the telecommunication is emitted and received in Canada, or

(ii) the telecommunication is emitted or received in Canada and the billing location for the service is in Canada.

(2) Subsection (1) applies to supplies made after April 23, 1996.

1990, c. 45, s.
12(1)

8. (1) Section 145 of the Act is repealed.

(2) Subsection (1) is deemed to have come into force on April 24, 1996.

9. (1) Paragraph 148(1)(b) of the Act is replaced by the following:

(b) \$30,000 or, where the person is a public service body, \$50,000, and

(2) Paragraph 148(2)(b) of the Act is replaced by the following:

(b) \$30,000 or, where the person is a public service body, \$50,000, and

(3) Subsections (1) and (2) are deemed to have come into force on April 23, 1996.

1990, c. 9, s.
6(1)

10. (1) The portion of subsection 148.1(2) of the Act before paragraph (a) is replaced by the following:

Charity and public
institution as
small supplier

(2) For the purposes of this Part, a person that is a charity or a public institution at any time in a particular fiscal year of the person is a small supplier throughout the particular fiscal year if

1990, c. 9, s.
6(1)

(2) Paragraphs 148.1(2)(b) and (c) of the Act are replaced by the following:

(b) the particular fiscal year is the second fiscal year of the person and the gross revenue of the person for the first fiscal year of the person was \$250,000 or less; or

(c) the particular fiscal year is not the first or second fiscal year of the person and the gross revenue of the person for either of the two fiscal years of the person immediately preceding the particular fiscal year was \$250,000 or less.

(3) Subsection (1) is deemed to have come into force on January 1, 1997.

(4) Subsection (2) is deemed to have come into force on April 23, 1996.

1993, c. 27, s.
24(2)

11. (1) Subsection 149(1) of the Act is amended by striking out the word "or" at the end of paragraph (a) and by replacing paragraph (b) with the following:

(b) the total (in this paragraph referred to as the "financial revenue") of all amounts each of which is an amount that is interest, a dividend (other than a dividend in kind or a patronage dividend) or a separate fee or charge for a financial service and that is included in computing, for the purposes of the *Income Tax Act*, the person's income, or, where the person is an individual, the person's income from a business, for the taxation year of the person preceding the particular year exceeds the greater of

(i) 10% of the total of

(A) the amount that would, but for subsection (4), be the financial revenue, and

(B) the total of all consideration that became due in that preceding taxation year, or that was paid in that preceding taxation year without having become due, to the person for supplies (other than supplies by way of sale of capital property of the person and supplies of financial services) made by the person, and

(ii) the amount determined by the formula

$$\$10,000,000 \times A/365$$

where A is the number of days in that preceding taxation year; or

(c) the total of all amounts each of which is an amount that is included in computing, for the purposes of that Act, the person's income, or, where the person is an individual, the person's income from a business, for that preceding taxation year and that is interest, or a separate fee or charge, with respect to

(i) a credit card or charge card issued by the person, or

(ii) the making of an advance, the lending of money or the granting of credit

exceeds

(iii) the amount determined by the formula

$$\$1,000,000 \times A/365$$

where A is the number of days in that preceding taxation year.

1993, c. 27, s.
24(3)

(2) Subsection 149(4) of the Act is replaced by the following:

Exclusion of
interest and
dividend

(4) In determining a total for a person under paragraph (1)(b) or (c), there shall not be included interest, or any dividend, from a corporation related to the person.

Charities,
municipalities,
etc.

(4.1) Paragraphs (1)(b) and (c) do not apply for the purpose of determining if a person is a financial institution throughout a particular taxation year where the person is

(a) at the beginning of the particular year,

(i) a charity, municipality, school authority, hospital authority, public college or university, or

(ii) a non-profit organization that operated, otherwise than for profit, a health care facility within the meaning of paragraph (c) of the definition of that expression in section 1 of Part II of Schedule V; or

(b) on the last day of the taxation year of the person preceding the particular year, a qualifying non-profit organization (within the meaning of subsection 259(2)).

(3) Subsections (1) and (2) apply to taxation years beginning after April 23, 1996.

1990, c. 45, s.
12(1)

12. (1) Subsections 150(1) and (2) of the Act are replaced by the following:

Election for
exempt supplies

150. (1) For the purposes of this Part, where at any time a person who is a member of a closely related group of which a listed financial institution is a member files an election made jointly by the person and a corporation that is also a member of the group at that time, every supply between the person and the corporation of property by way of lease, licence or similar arrangement or of a service that is made at a time when the election is in effect and that would, but for this subsection, be a taxable supply is deemed to be a supply of a financial service.

Exception

(2) Subsection (1) does not apply to an imported taxable supply (within the meaning assigned by section 217) or to property held or services rendered by a member of a closely related group as a participant in a joint venture with another person at a time when an election under section 273 between the member and the other person is in effect.

(2) Subsection (1) applies to any supply for which consideration becomes due after December 7, 1994 or is paid after that day without having become due except that tax under Division IV of Part IX of the Act shall not be payable in respect of any consideration that became due or was paid on or before that day where that tax would not, but for subsection (1), be payable in respect of the supply.

13. (1) Section 153 of the Act is amended by adding the following after subsection (3):

Used tangible
personal property
trade-ins

(4) Where, at the time a supplier makes a supply of tangible personal property to a recipient, the supplier accepts, in full or partial consideration for the supply, other property (in this subsection and subsection (5) referred to as the "trade-in") that

(a) is used tangible personal property or a leasehold interest therein, and

(b) is acquired for consumption, use or supply in the course of a commercial activity of the supplier,

and the recipient is not required to collect tax in respect of the supply of the trade-in, the value of the consideration for the supply made by the supplier is deemed, for the purposes of this Part, to be equal to the amount, if any, by which the value of the consideration for that supply (as otherwise determined under this Part) exceeds

(c) except where paragraph (d) applies, the amount credited to the recipient in respect of the trade-in, and

(d) where the supplier and the recipient are not dealing with each other at arm's length at the time the supply is made and the amount credited to the recipient in respect of the trade-in exceeds the fair market value of the

trade-in at the time ownership thereof is transferred to the supplier, that fair market value.

Exception

(5) Subsection (4) does not apply

(a) for the purpose of determining, for the purposes of any provision of this Part or any Schedule to this Act other than Schedules I to IV, whether the value of consideration for a supply of property equals, exceeds or is less than another amount specified in the provision;

(b) for the purposes of section 148 or 249; or

(c) to any supply of a trade-in that is a zero-rated supply, a supply made outside Canada or a supply in respect of which no tax is payable because of subsection 156(2) or paragraph 167(1.1)(a).

(2) Subsection (1) applies to supplies made after April 23, 1996 except that

(a) subsection (1) does not apply to any supply to a recipient of particular property that the supplier accepted, under an agreement in writing entered into before July 1, 1996, as full or partial consideration for other tangible personal property (in this paragraph referred to as the "trade-in") where the supplier charged or collected tax in respect of the supply of the particular property calculated without reference to the amount credited by the supplier to the recipient in respect of the trade-in; and

(b) in applying subsections 153(4) and (5) of the Act, as enacted by subsection (1), to supplies for which all of the consideration becomes due or is paid before 1997, paragraph 153(5)(a) shall be read without reference to "section 5.1 of Part V.1 of Schedule V" and the reference in that paragraph to "that Schedule" shall be read as a reference to "Schedule V".

1990, c. 45, s.
12(1)

14. (1) Section 154 of the Act is replaced by the following:

Other taxes

154. For the purposes of this Part, the consideration for a supply of property or a service includes any tax, duty or fee (other than a prescribed tax, duty or fee, or tax under this Part, payable by the recipient in respect of the supply) imposed under an Act of Parliament or the legislature of a province in respect of the supply, production, importation, consumption or use of the property or service that is payable by the recipient or is payable or collectible by the supplier.

(2) Subsection (1) is deemed to have come into force on December 17, 1990.

1993, c. 27, s.
26(1)

15. (1) Subsection 155(2) of the Act is replaced by the following:

Exception

(2) Subsection (1) does not apply to a supply of property or a service by a person where

(a) an amount is deemed under section 173 to be the total consideration for the supply; or

(b) in the absence of subsection (1),

(i) the person, because of subsection 170(1), would not be entitled to claim an input tax credit in respect of the acquisition or importation of the property or service by the person,

(ii) subsection 172(2) would apply to the supply, or

(iii) the supply would be an exempt supply included in Part V.1 or VI of Schedule V.

(2) Subsection (1) applies to supplies made after April 23, 1996 except that subparagraph 155(2)(b)(iii) of the Act, as enacted by subsection (1), shall, in respect of supplies for which all of the consideration becomes due or is paid before 1997, be read as follows:

(iii) the supply would be included in any of sections 6 to 10 of Part VI of Schedule V.

1993, c. 27, s.
30(1)

16. (1) Section 164 of the Act is repealed.

(2) Subsection (1) applies to supplies made after 1996 except that it does not apply to supplies of admissions to a dinner, ball, concert, show or like event for which the supplier has supplied admissions before 1997.

1990, c. 45, s.
12(1); 1993, c.
27, s. 31(1)

17. (1) The portion of subsection 165(3) of the Act before subparagraph (c)(i) is replaced by the following:

Pay telephones

(3) Where the consideration for a supply of a telecommunication service is paid by depositing coins in a coin-operated telephone, the tax payable in respect of the supply is equal to

(a) zero where the amount deposited for the supply does not exceed \$0.25; and

(b) in any other case, the amount computed in accordance with subsection (1), except that where that amount is the total of a multiple of \$0.05 and a fraction of \$0.05, the fraction

(2) Section 165 of the Act is amended by adding the following after subsection (3):

Coin-operated
devices

(3.1) The tax payable in respect of a supply of tangible personal property dispensed from, or a service rendered through the operation of, a mechanical coin-operated device that is designed to accept only a single coin as the total consideration for the supply is equal to

(a) zero where the amount computed in accordance with subsection (1) is less than \$0.025;

(b) five cents where the amount computed in accordance with subsection (1) is equal to or greater than \$0.025 but less than \$0.05; and

(c) in any other case, the amount computed in accordance with subsection (1).

(3) Subsection (1) applies to any supply for which the recipient pays consideration after April 23, 1996.

(4) Subsection (2) applies to supplies made after April 23, 1996.

1990, c. 45, s.
12(1)

18. (1) Paragraph 167(2)(b) of the Act is replaced by the following:

(b) the estate of the deceased individual makes a supply, in accordance with the individual's will or the laws relating to the succession of property on death, of the property to another individual who is a beneficiary of the estate and a registrant,

1993, c. 27, s.
32(2)

(2) Paragraph 167(2)(d) of the Act is replaced by the following:

(d) the estate and the other individual jointly elect under this subsection,

(3) Subsections (1) and (2) are deemed to have come into force on December 17, 1990.

1993, c. 27, s.
35(4)

19. (1) Paragraph 169(4)(b) of the Act is replaced by the following:

(b) where the credit is in respect of real property supplied by way of sale to the registrant in circumstances in which subsection 221(2) applies, the registrant has reported the tax in respect of the supply in a return filed under this Part.

(2) Subsection (1) is deemed to have come into force on January 1, 1997.

20. (1) Subsection 170(1) of the Act is amended by adding the following after paragraph (a):

(a.1) a supply or an importation of property or a service that is acquired or imported by the registrant for consumption or use by the registrant (or, where the registrant is a partnership, an individual who is a member of the partnership) in relation to any part (in this paragraph referred to as the "work space") of a self-contained domestic establishment in which the registrant or the individual, as the case may be, resides unless the work space

(i) is the principal place of business of the registrant, or

(ii) is used exclusively for the purpose of earning income from a business and is used on a regular and continuous basis for meeting clients, customers or patients of the registrant in respect of the business;

(2) Subsection (1) applies to property imported after April 23, 1996 and to supplies for which all of the consideration becomes due after that day or is paid after that day without having become due.

1993, c. 27, s.
39(1)

21. (1) The portion of subsection 172(2) of the Act before paragraph (a) is replaced by the following:

Benefits to
shareholders, etc.

(2) For the purposes of this Part, where at any time a registrant that is a corporation, partnership, trust, charity, public institution or non-profit organization appropriates any property (other than capital property of the registrant) that was acquired, manufactured or produced, or any service acquired or performed, in the course of commercial activities of the registrant, to or for the benefit of a shareholder, partner, beneficiary or member of the registrant or any individual related to such a shareholder, partner, beneficiary or member, in any manner whatever (otherwise than by way of a supply made for consideration equal to the fair market value of the property or service), the registrant is deemed

(2) Subsection (1) is deemed to have come into force on January 1, 1997.

1993, c. 27, s.
40(1); 1994, c.
21, s. 126(2) &
(3)

22. (1) Subsection 173(1) of the Act is replaced by the following:

Employee and
shareholder
benefits

173. (1) Where a registrant makes a supply (other than an exempt or zero-rated supply) of property or a service to an individual or a person related to the individual and

(a) an amount (in this subsection referred to as the "benefit amount") in respect of the supply is required under paragraph 6(1)(a),(e),(k) or (l) or subsection 15(1) of the *Income Tax Act* to be included in computing the individual's income for a taxation year of the individual, or

(b) the supply relates to the use or operation of an automobile and an amount (in this subsection referred to as a "reimbursement") is paid by the individual or a person related to the individual that reduces the amount in respect of the supply that would otherwise be required under paragraph 6(1)(e),(k) or (l) or subsection 15(1) of that Act to be so included,

the following rules apply:

(c) in the case of a supply of property otherwise than by way of sale, the use made by the registrant in so providing the property to the individual or person related to the individual is deemed, for the purposes of this Part, to be use in commercial activities of the registrant and, to the extent that the registrant acquired or imported the property for the purpose of making that supply, the registrant is deemed, for the purposes of this Part, to have so

acquired or imported the property for use in commercial activities of the registrant, and

(d) in any case, except where

(i) the registrant was, because of section 170, not entitled to claim an input tax credit in respect of the last acquisition or importation of the property or service by the registrant,

(ii) an election under subsection (2) by the registrant in respect of the property is in effect at the beginning of the taxation year,

(iii) the registrant is an individual or a partnership and the property is a passenger vehicle or aircraft of the registrant that is not used by the registrant exclusively in commercial activities of the registrant, or

(iv) the registrant is not an individual, a partnership or a financial institution and the property is a passenger vehicle or aircraft of the registrant that is not used by the registrant primarily in commercial activities of the registrant,

for the purpose of determining the net tax of the registrant,

(v) the total of the benefit amount and all reimbursements is deemed to be the total consideration payable in respect of the provision during the year of the property or service to the individual or person related to the individual,

(vi) the tax calculated on the total consideration is deemed to be equal to

(A) where the benefit amount is an amount that is or would, if the individual were an employee of the registrant and no reimbursements were paid, be required under paragraph 6(1)(k) or (l) of the *Income Tax Act* to be included in computing the individual's income, the prescribed percentage of the total consideration, and

(B) in any other case, 6/106ths of the total consideration, and

(vii) that tax is deemed to have become collectible, and to have been collected, by the registrant

(A) except where clause (B) applies, on the last day of February of the year following the taxation year, and

(B) where the benefit amount is or would, if no reimbursements were paid, be required under subsection 15(1) of that Act to be included in computing the individual's income and relates to the provision of the property or service in a taxation year of the registrant, on the last day of that taxation year.

(2) Subsection 173(3) of the Act 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 not be included, in determining an input tax credit claimed by the registrant in the return under section 238 for the particular or any subsequent reporting period, tax calculated on an amount of consideration, or a value determined under section 215, that can reasonably be attributed to

(i) any property that is acquired or imported for consumption or use in operating the vehicle or aircraft in respect of which the election is made and that is, or is to be, used or consumed after that day, or

(ii) that portion of any service relating to the operation of that vehicle or aircraft that is, or is to be, rendered after that day; and

(e) where an amount in respect of any tax referred to in paragraph (d) was included in determining an input tax credit claimed by the registrant in a return under section 238 for a reporting period ending before the particular reporting period, that amount shall be added in determining the net tax of the registrant for the particular reporting period.

(3) Subsection (1) applies to the 1996 and subsequent taxation years.

(4) Subsection (2) applies for the purpose of determining the net tax of a registrant for reporting periods ending after 1995 except that paragraph 173(3)(d) of the Act, as enacted by subsection (2), applies to property or services acquired or imported for consumption or use in operating a vehicle or aircraft in respect of which an election under subsection 173(2) of the Act becomes effective before 1996 as if the election had become effective on January 1, 1996.

1994, c. 9, s.
9(1)

23. (1) Subparagraph 174(a)(iii) of the Act is replaced by the following:

(iii) where the person is a charity or a public institution, to a volunteer who gives services to the charity or institution

1994, c. 9, s.
9(1)

(2) Subparagraph 174(c)(ii) of the Act is replaced by the following:

(ii) where the person is a partnership and the allowance is paid to a member of the partnership, if the member were an employee of the partnership, or, where the person is a charity or a public institution and the allowance is paid to a volunteer, if the volunteer were an employee of the charity or institution,

1994, c. 9, s.
9(1)

(3) The portion of section 174 of the Act after paragraph (c) is replaced by the following:

the following rules apply:

(d) the person is deemed to have received a supply of the property or service,

(e) any consumption or use of the property or service by the employee, member or volunteer is deemed to be consumption or use by the person and not by the employee, member or volunteer, and

(f) the person is deemed to have paid at the time the allowance is paid, tax in respect of the supply equal to the tax fraction of the allowance.

(4) Subsections (1) and (2) are deemed to have come into force on January 1, 1997.

(5) Subsection (3) is deemed to have come into force on December 17, 1990 but does not apply for the purpose of determining any amount claimed (other than an amount deemed under paragraph 296(5)(a) of the Act to have been claimed as a result of an assessment made after April 23, 1996) in a return under Division V, or in an application under Division VI, of Part IX of the Act that is received by the Minister of National Revenue before April 23, 1996.

1994, c. 9, s.
9(1)

24. (1) Section 175 of the Act is replaced by the following:

Employee, partner
or volunteer
reimbursement

175. (1) Where an employee of an employer, a member of a partnership or a volunteer who gives services to a charity or public institution acquires or imports property or a service for consumption or use in relation to activities of the employer, partnership, charity or public institution (each of which is referred to in this subsection as the "person"), the employee, member or volunteer paid the tax payable in respect of that acquisition or importation and the person pays an amount to the employee, member or volunteer as a reimbursement in respect of the property or service, for the purposes of this Part,

(a) the person is deemed to have received a supply of the property or service;

(b) any consumption or use of the property or service by the employee, member or volunteer in relation to activities of the person is deemed to be consumption or use by the person and not by the employee, member or volunteer; and

(c) the person is deemed to have paid, at the time the reimbursement is paid, tax in respect of the supply equal to the amount determined by the formula

$$A \times B$$

where

A is the tax paid by the employee, member or volunteer in respect of the acquisition or importation of the property or service by the employee, member or volunteer, and

B is the lesser of

(i) the percentage of the cost to the employee, member or volunteer of the property or service that is reimbursed, and

(ii) the extent (expressed as a percentage) to which the property or service was acquired or imported by the employee, member or volunteer for consumption or use in relation to activities of the person.

Exception

(2) Subsection (1) does not apply to a reimbursement in respect of property or a service acquired or imported by a member of a partnership where paragraph 272.1(2)(b) applies to the acquisition or importation and the reimbursement is paid to the member after the member files with the Minister a return of the member under section 238 in which an input tax credit in respect of the property or service is claimed.

Warrantee
reimbursement

175.1 Where

(a) the beneficiary of a warranty (other than an insurance policy) in respect of the quality, fitness or performance of tangible property acquires or imports property or a service in respect of which tax is payable by the beneficiary, and

(b) a registrant pays to the beneficiary, under the terms of the warranty, an amount as a reimbursement in respect of the property or service and therewith provides written indication that a portion of the amount is on account of tax,

the following rules apply:

(c) the registrant may claim an input tax credit, for the reporting period of the registrant in which the reimbursement is paid, equal to the amount (referred to in this section as the "tax reimbursed") determined by the formula

$$A \times B/C$$

where

A is the tax payable by the beneficiary in respect of the supply to, or importation by, the beneficiary of the property or service,

B is the amount of the reimbursement, and

C is the cost to the beneficiary of the property or service, and

(d) where the beneficiary is a registrant who was entitled to claim an input tax credit, or a rebate under Division VI, in respect of the property or service, the beneficiary is deemed, for the purposes of this Part, to have made a taxable supply and to have collected, at the time the reimbursement is paid, tax in respect of the supply equal to the amount determined by the formula

$$A \times B/C$$

where

A is the tax reimbursed,

B is the total of the input tax credits and rebates under Division VI that the beneficiary was entitled to claim in respect of the property or service, and

C is the tax payable by the beneficiary in respect of the supply to, or importation by, the beneficiary of the property or service.

(2) Subsection (1) is deemed to have come into force on December 17, 1990 except that

(a) it does not apply for the purpose of determining any amount claimed (other than an amount deemed under paragraph 296(5)(a) of the Act to have been claimed as a result of an assessment made after April 23, 1996) in a return

under Division V, or in an application under Division VI, of Part IX of the Act that is received by the Minister of National Revenue before April 23, 1996;

(b) in applying subsection 175(1) of the Act, as enacted by subsection (1), before 1997, it shall be read as if no reference were made to a public institution;

(c) in applying subsection 175(2) of the Act, as enacted by subsection (1), on or before April 23, 1996, the reference in that subsection to "paragraph 272.1(2)(b)" shall be read as a reference to "subsection 145(2)"; and

(d) section 175.1 of the Act, as enacted by subsection (1), applies only to amounts reimbursed after April 23, 1996.

1994, c. 45, s.
12(1)

24.1 (1) The heading before section 176 of the Act is replaced by the following:

Used Returnable Containers

(2) Subsection (1) is deemed to have come into force on April 24, 1996.

1990, c. 45, s.
12(1)

25. (1) Subsection 176(1) of the Act is replaced by the following:

Acquisition of
used returnable
containers

176. (1) Subject to this Division, where

(a) a registrant is the recipient of a supply made in Canada by way of sale of used tangible personal property that is a usual covering or container of a class of coverings or containers in which property (other than property the supply of which is a zero-rated supply) is delivered,

(b) tax is not payable by the registrant in respect of the supply,

(c) the property is acquired for the purpose of consumption, use or supply in the course of commercial activities of the registrant, and

(d) except where the property is a returnable container (within the meaning assigned by section 226) of a class that is not supplied by the registrant when filled and sealed, the registrant pays to the supplier consideration for the supply that is not less than the total of

(i) the consideration that the registrant charges for supplies by the registrant of used coverings or containers of that class, and

(ii) tax calculated on that consideration,

for the purposes of this Part, the registrant is deemed (except where section 167 applies to the supply) to have paid, at the time any amount is paid as consideration for the supply, tax in respect of the supply equal to the tax fraction of that amount.

(2) Subsections 176(2) and (3) of the Act are repealed, subsection 176(4) of the Act is renumbered as subsection 176(2) and subsection 176(4.1) of the Act is repealed.

(3) Subsections 176(5) to (7) of the Act are repealed.

(4) Subsection (1) applies to supplies made after April 23, 1996 other than

(a) any supply made to a registrant by a person before July 1, 1996 of used tangible personal property that was not accepted by the registrant in full or partial consideration for a supply by the registrant to the person of other tangible personal property; and

(b) any supply by a person to a registrant of particular used tangible personal property that, under an agreement in writing entered into before July 1, 1996, the registrant accepted in full or partial consideration for a supply by the registrant to the person of other tangible personal property in respect of which the registrant charged or collected tax calculated without reference to the amount credited by the registrant to the person in respect of the particular property.

(5) Subsection (2) applies to supplies made after April 23, 1996.

(6) Subsection (3) applies after April 23, 1996.

1993, c. 27, s.
42(1)

26. (1) Subsections 177(1) to (1.4) of the Act are replaced by the following:

Supply on behalf
of person not
required to
collect tax

177. (1) Where

(a) a person (in this subsection referred to as the "principal") makes a supply (other than an exempt or zero-rated supply) of tangible personal property to a recipient (otherwise than by auction),

(b) the principal is not required to collect tax in respect of the supply except as provided in this subsection, and

(c) a registrant (in this subsection referred to as the "agent"), in the course of a commercial activity of the agent, acts as agent in making the supply on behalf of the principal,

the following rules apply:

(d) where the principal is a registrant and the property was last used, or acquired for consumption or use, by the principal in an endeavour of the principal, within the meaning of subsection 141.01(1), and the principal and agent jointly elect in writing, the supply of the property to the recipient is deemed to be a taxable supply for the following purposes:

(i) all purposes of this Part, other than determining whether the principal may claim an input tax credit in respect of property or services acquired or imported by the principal for consumption or use in making the supply to the recipient, and

(ii) the purpose of determining whether the principal may claim an input tax credit in respect of services supplied by the agent relating to the supply of the property to the recipient, and

(e) in any other case, the supply of the property to the recipient is deemed, for the purposes of this Part, to be a taxable supply made by the agent and not by the principal and the agent is deemed, for the purposes of this Part other than section 180, not to have made a supply to the principal of services relating to the supply of the property to the recipient.

Election for agent
to account for tax

(1.1) Where a registrant, in the course of a commercial activity of the registrant, acts as agent in making a supply (otherwise than by auction) on behalf of a person who is required to collect tax in respect of the supply otherwise than as a consequence of the application of paragraph (1)(d) and the registrant and the person jointly elect in prescribed form containing prescribed information,

(a) the tax collectible in respect of the supply shall be included in determining the net tax of the registrant and not of the person as if the tax were collectible by the registrant; and

(b) the registrant and the person are jointly and severally liable for all obligations under this Part that arise upon or as a consequence of the tax becoming collectible.

Supply by
auctioneer

(1.2) Where a registrant (in this subsection referred to as the "auctioneer"), acting as auctioneer and agent for another person (in this subsection referred to as the "principal") in the course of a commercial activity of the auctioneer, makes on behalf of the principal a supply by auction of tangible personal property to a recipient, the supply is deemed, for the purposes of this Part, to be a taxable supply made by the auctioneer and not by the principal and the auctioneer is deemed, for the purposes of this Part other than section 180, not to have made a supply to the principal of services relating to the supply of the property to the recipient.

(2) Subsection (1) applies to any supply made after April 23, 1996 by a registrant to a recipient on behalf of another person and to any supply made by the registrant to the other person of services relating to the supply to the recipient except that

(a) subsection (1) does not apply to a supply of tangible personal property made on or before June 30, 1996 where

(i) the supply is made by an agent otherwise than by auction on behalf of a principal who would not have been required to collect tax in respect of the supply if the principal had made the supply otherwise than through an agent and

(A) if the agent disclosed in writing to the recipient of the supply that the agent was making the supply on behalf of another person who was not required to collect tax in respect of the supply, no amount on account of tax in respect of the supply was charged or collected, or

(B) in any other case, the agent pays to, or credits in favour of, the principal the amount on account of the supply of the property determined

by the formula in paragraph 177(1.1)(f) of the Act as it applied to supplies made before April 23, 1996, or

(ii) the supply is made by auction on behalf of a principal and the auctioneer pays to, or credits in favour of, the principal the amount on account of the supply of the property determined under subsection 177(1.3) of the Act with reference to subsection 177(1.2) of the Act, as those subsections applied to supplies made before April 23, 1996; and

(b) with respect to supplies by auction of tangible personal property made before April 1997, section 177 of the Act, as amended by subsection (1), shall be read without reference to "(otherwise than by auction)" in subsections (1) and (1.1) thereof and without reference to subsection (1.2) thereof.

1990, c. 45, s.
12(1)

27. (1) Section 178 of the Act is repealed.

(2) Subsection (1) is deemed to have come into force on April 24, 1996.

1993, c. 27, s.
43(1)

28. (1) Subsection 178.3(3) of the Act is replaced by the following:

Adjustment to
direct seller's
net tax

(3) For the purposes of this Part, where a direct seller has made a supply of an exclusive product of the direct seller in circumstances in which an amount was required under paragraph (1)(d) to be added in determining the net tax of the direct seller and an independent sales contractor of the direct seller subsequently supplies the product to the direct seller in a particular reporting period of the direct seller, the contractor is deemed not to have so supplied the product and the amount may be deducted, in determining the net tax of the direct seller for the particular reporting period or a subsequent reporting period, in a return under Division V filed by the direct seller within two years after the day on or before which the return under Division V for the particular reporting period is required to be filed.

1993, c. 27, s.
43(1)

(2) The portion of subsection 178.3(4) of the Act after paragraph (c) is replaced by the following:

the direct seller may deduct the amount determined under paragraph (c), in determining the net tax for the particular reporting period of the direct seller in which the payment or credit is given or a subsequent reporting period, in a return under Division V filed by the direct seller within two years after the day on or before which the return under Division V for the particular reporting period is required to be filed.

(3) Subsections (1) and (2) apply to deductions in respect of supplies of exclusive products made by independent sales contractors after June 1996.

1993, c. 27, s.
43(1)

29. (1) Subsection 178.4(3) of the Act is replaced by the following:

Adjustment to
distributor's net
tax

(3) For the purposes of this Part, where a distributor of a direct seller has made a supply of an exclusive product of the direct seller in circumstances in which an amount was required under paragraph (1)(d) to be added in determining the net tax of the distributor and another independent sales contractor of the direct seller subsequently supplies the product to the distributor in a particular reporting period of the distributor, the other contractor is deemed not to have so supplied the product and the amount may be deducted, in determining the net tax of the distributor for the particular reporting period or a subsequent reporting period, in a return under Division V filed by the distributor within two years after the day on or before which the return under Division V for the particular reporting period is required to be filed.

1993, c. 27, s.
43(1)

(2) The portion of subsection 178.4(4) of the Act after paragraph (c) is replaced by the following:

the distributor may deduct the amount determined under paragraph (c), in determining the net tax for the particular reporting period of the distributor in which the payment or credit is given or a subsequent reporting period, in a return under Division V filed by the distributor within two years after the day on or before which the return under Division V for the particular reporting period is required to be filed.

(3) Subsections (1) and (2) apply to deductions in respect of supplies of exclusive products made by independent sales contractors after June 1996.

1993, c. 27, s.
44(1)

30. (1) Subparagraph 179(1)(a)(i) of the Act is replaced by the following:

(i) makes a taxable supply in Canada of tangible personal property by way of sale, or a taxable supply in Canada of a service of manufacturing or producing tangible personal property, to the non-resident person, or acquires physical possession of tangible personal property (other than property of a person who is resident in Canada or is registered under Subdivision d of Division V) for the purpose of making a taxable supply of a commercial service in respect of the property to the non-resident person, and

(2) Subparagraphs 179(1)(c)(i) to (iii) of the Act are replaced by the following:

(i) where the registrant has caused physical possession of the property to be transferred to a consignee to whom the non-resident person has supplied the property for no consideration, nil, and

(ii) in any other case, the fair market value of the property at that time, and

(3) Paragraph 179(1)(d) of the Act is replaced by the following:

(d) where the registrant made a supply of a service referred to in subparagraph (a)(i) in respect of the property to the non-resident person, except in the case of a supply of a service of storing or shipping the property, the registrant is deemed not to have made that supply of the service.

(4) Subsection (1) is deemed to have come into force on December 17, 1990.

(5) Subsections (2) and (3) apply to supplies made after April 23, 1996.

31. (1) The Act is amended by adding the following after section 180:

International Travel

Definitions

180.1 (1) The definitions in this subsection apply in this section.

"international
flight"
« *vol
international* »

"international flight" means any flight (other than a flight originating and terminating in Canada) of an aircraft that is operated by a person in the course of a business of supplying passenger transportation services.

"international
voyage"
« *voyage
international* »

"international voyage" means any voyage (other than a voyage originating and terminating in Canada) of a vessel that is operated by a person in the course of a business of supplying passenger transportation services.

Delivery while on
international
travel

(2) For the purposes of this Part, where a supply of tangible personal property or a service (other than a passenger transportation service) is made to an individual on board an aircraft on an international flight or a vessel on an international voyage and physical possession of the property is transferred to the individual, or the service is wholly performed, on board the aircraft or vessel, the supply is deemed to have been made outside Canada.

(2) Subsection (1) applies to supplies made after April 23, 1996.

1993, c. 27, s.
46(1)

32. (1) Subsections 182(1) and (2) of the Act are replaced by the following:

Forfeiture,
extinguished debt,
etc.

182. (1) For the purposes of this Part, where at any time, as a consequence of the breach, modification or termination after 1990 of an agreement for the making of a taxable supply (other than a zero-rated supply) of property or a

service in Canada by a registrant to a person, an amount is paid or forfeited to the registrant otherwise than as consideration for the supply, or a debt or other obligation of the registrant is reduced or extinguished without payment on account of the debt or obligation,

(a) the consideration fraction of the amount paid, forfeited or extinguished, or by which the debt or obligation was reduced, as the case may be, is deemed to be consideration for the supply paid, at that time, by the person; and

(b) the registrant is deemed to have collected, and the person is deemed to have paid, at that time, tax in respect of the supply calculated on that consideration.

Transitional

(2) Paragraph (1)(b) does not apply in respect of amounts paid or forfeited, and debts or other obligations reduced or extinguished, as a consequence of a breach, modification or termination of an agreement where

(a) the agreement was entered into in writing before 1991;

(b) the amount is paid or forfeited, or the debt or other obligation is reduced or extinguished, as the case may be, after 1992; and

(c) tax in respect of the amount paid, forfeited or extinguished, or by which the debt or obligation was reduced, as the case may be, was not contemplated in the agreement.

Application of Division IX

(2.1) Division IX does not apply for the purposes of subsection (1).

(2) Subsection (1) is deemed to have come into force on April 24, 1996.

1993, c. 27, s.
47(2)

33. (1) Paragraph 183(1)(d) of the Act is replaced by the following:

(d) where the supply referred to in paragraph (a) is a supply of real property included in section 9 of Part I of Schedule V, in section 1 of Part V.1 of that Schedule or in section 25 of Part VI of that Schedule, for the purposes of sections 193 and 257, the supply is deemed to be a taxable supply and the tax payable in respect of the supply is deemed to be equal to tax calculated on the fair market value of the property at that time.

1993, c. 27, s.
47(1)

(2) Paragraph 183(5)(a) of the Act is replaced by the following:

(a) the creditor is deemed to have received, immediately after the particular time, a particular supply by way of sale of the property; and

1993, c. 27, s.
47(1)

(3) Paragraph 183(6)(a) of the Act is replaced by the following:

(a) the creditor is deemed

(i) to have received, immediately after the particular time, a supply by way of sale of the property, and

(ii) except where

(A) the property was, at the time it was seized or repossessed, specified tangible personal property having a fair market value in excess of the prescribed amount in respect of the property, and

(B) tax would not have been payable had the property been purchased in Canada from the person at the time it was seized or repossessed,

to have paid, immediately after the particular time, tax in respect of that supply equal to the tax fraction of the fair market value of the property at the time it was seized or repossessed; and

1993, c. 27, s.
47(3)

(4) The portion of subsection 183(7) of the Act before paragraph (a) is replaced by the following:

Sale of personal
property

(7) For the purposes of this Part, where a creditor who has seized or repossessed personal property from a person in circumstances in which subsection (1) applies makes at any time a particular taxable supply of the property by way of sale (other than a supply deemed under this Part to have been made), the creditor was not deemed under subsection (5), (6) or (8) to have received a supply of the property at an earlier time and no tax would have been payable by the creditor had the creditor purchased the property from the person in Canada at the time it was seized or repossessed, except where

1993, c. 27, s.
47(3)

(5) Paragraph 183(7)(b) of the Act is replaced by the following:

(b) the property was seized or repossessed by the creditor before 1994 or was, at the time of the seizure or repossession, specified tangible personal property having a fair market value in excess of the prescribed amount in respect of the property,

1993, c. 27, s.
47(3)

(6) Paragraph 183(8)(b) of the Act is replaced by the following:

(b) the property was seized or repossessed by the creditor before 1994 or was, at the time it was seized or repossessed, specified tangible personal property having a fair market value in excess of the prescribed amount in respect of the property,

1993, c. 27, s.
47(6)

(7) The portion of subsection 183(10) of the Act before paragraph (b) is replaced by the following:

Debt security,
etc.

(10) For the purposes of this Part, where

(a) for the purposes of satisfying in whole or in part a debt or obligation owing by a person, a creditor exercises a right under an Act of Parliament or the legislature of a province or an agreement relating to a debt security to cause the supply of property,

(8) Section 183 of the Act is amended by adding the following after subsection (10):

Redemption of
property

(10.1) For the purposes of this Part, where

(a) for the purposes of satisfying in whole or in part a debt or obligation owing by a person (in this subsection referred to as the "debtor"), a creditor exercises a right under an Act of Parliament or the legislature of a province or an agreement relating to a debt security to cause the supply of property (in this subsection referred to as the "first supply"),

(b) the recipient of the first supply has paid an amount (in this subsection referred to as the "tax amount") as or on account of tax with respect to that supply, and

(c) under the Act or the agreement, the debtor has a right to redeem the property and the debtor exercises that right,

the following rules apply:

(d) the redemption of the property is deemed to be a supply of the property made by way of sale by the recipient of the first supply to the debtor for no consideration, and

(e) where the property was redeemed from the recipient of the first supply and an amount has been reimbursed by the debtor to the creditor or that recipient on account of the tax amount,

(i) except for the purposes of this section, the debtor is deemed not to have supplied the property to the creditor under subsection (1) or to have received a supply of the property at the time of the redemption,

(ii) the debtor is deemed, for the purposes of section 261, to have paid tax in error at the time of the redemption equal to the amount so reimbursed,

(iii) where the tax amount has been included in determining a rebate or an input tax credit claimed by that recipient in an application or return, the amount of the rebate or the input tax credit shall be added in determining the net tax of that recipient for the reporting period in which the property was redeemed, and

(iv) the tax amount shall not be included in determining a rebate or an input tax credit claimed by that recipient in an application or a return filed after the redemption of the property.

(9) Subsection (1) applies to supplies made after 1996.

(10) Subsections (2) and (3) apply after April 23, 1996.

(11) Subsections (4) to (6) apply to property that is supplied by a creditor after April 23, 1996.

(12) Subsection (7) applies to

(a) any supply made after April 23, 1996; and

(b) any supply made on or before that day unless

(i) no amount was, on or before that day, charged or collected as or on account of tax under Part IX of the Act in respect of the supply, or

(ii) an amount was charged or collected as or on account of tax under that Part in respect of the supply and, before that day, the Minister of National Revenue received an application under subsection 261(1) of the Act for a rebate in respect of that amount (other than an application deemed under paragraph 296(5)(a) of the Act to have been filed as a result of an assessment made after that day).

(13) Subsection (8) applies to redemptions of property occurring after April 23, 1996.

1993, c. 27, s.
48(2)

34. (1) Paragraph 184(1)(d) of the Act is replaced by the following:

(d) in the case of a supply of real property included in section 9 of Part I of Schedule V, in section 1 of Part V.1 of that Schedule or in section 25 of Part VI of that Schedule, for the purposes of sections 193 and 257, the supply is deemed to be a taxable supply and the tax payable in respect of the supply is deemed to be equal to tax calculated on the fair market value of the property at that time.

1993, c. 27, s.
48(1)

(2) Paragraph 184(4)(a) of the Act is replaced by the following:

(a) the insurer is deemed to have received, immediately after the particular time, a particular supply by way of sale of the property; and

1993, c. 27, s.
48(1)

(3) Paragraph 184(5)(a) of the Act is replaced by the following:

(a) the insurer is deemed

(i) to have received, immediately after the particular time, a supply by way of sale of the property, and

(ii) except where

(A) the property was, at the time it was transferred, specified tangible personal property having a fair market value in excess of the prescribed amount in respect of the property, and

(B) tax would not have been payable had the property been purchased in Canada from the person at the time it was transferred,

to have paid, immediately after the particular time, tax in respect of that supply equal to the tax fraction of the fair market value of the property at the time it was transferred; and

1993, c. 27, s.
48(3)

(4) The portion of subsection 184(6) of the Act before paragraph (a) is replaced by the following:

Sale of personal
property

(6) For the purposes of this Part, where an insurer to whom personal property has been transferred from a person in circumstances in which subsection (1) applies makes at any time a particular taxable supply of the property by way of sale (other than a supply deemed under this Part to have been made), the insurer was not deemed under subsection (4), (5) or (7) to have received a supply of the property at an earlier time and no tax would have been payable by the insurer had the insurer purchased the property from the person in Canada at the time it was transferred, except where

1993, c. 27, s.
48(3)

(5) Paragraph 184(6)(b) of the Act is replaced by the following:

(b) the property was transferred to the insurer before 1994 or was, at the time of the transfer, specified tangible personal property having a fair market value in excess of the prescribed amount in respect of the property,

1993, c. 27, s.
48(3)

(6) Paragraph 184(7)(b) of the Act is replaced by the following:

(b) the property was transferred to the insurer before 1994 or was, at the time it was transferred, specified tangible personal property having a fair market value in excess of the prescribed amount in respect of the property,

(7) Subsection (1) applies to supplies made after 1996.

(8) Subsections (2) and (3) apply after April 23, 1996.

(9) Subsections (4) to (6) apply to property that is supplied by an insurer after April 23, 1996.

1994, c. 9, s.
11(1)

35. (1) Subsection 185(1) of the Act is replaced by the following:

Financial services
- input tax
credits

185. (1) Where tax in respect of property or a service acquired or imported by a registrant who is engaged in commercial activities becomes payable by the registrant at a time when the registrant is neither a listed financial institution nor a person who is a financial institution because of paragraph 149(1)(b), for the purpose of determining an input tax credit of the registrant

in respect of the property or service and for the purposes of Subdivision d, to the extent (determined in accordance with subsection 141.01(2)) that the property or service was acquired or imported for consumption, use or supply in the course of making supplies of financial services that relate to commercial activities of the registrant,

(a) where the registrant is a financial institution because of paragraph 149(1)(c), the property or service is deemed, notwithstanding subsection 141.01(2), to have been acquired or imported for consumption, use or supply in the course of those commercial activities except to the extent that the property or service was acquired or imported for consumption, use or supply in the course of activities of the registrant that relate to

(i) credit cards or charge cards issued by the registrant, or

(ii) the making of any advance, the lending of money or the granting of any credit; and

(b) in any other case, the property or service is deemed, notwithstanding subsection 141.01(2), to have been acquired or imported for consumption, use or supply in the course of those commercial activities.

(2) Subsection (1) applies to property and services acquired or imported in taxation years of registrants beginning after April 23, 1996.

36. (1) Subparagraph 190(1)(f)(ii) of the Act is replaced by the following:

(ii) a personal trust that acquires the property at that time to hold or use exclusively as a place of residence of an individual who is a beneficiary of the trust,

(2) Subsection (1) applies after April 23, 1996.

37. (1) Section 191 of the Act is amended by adding the following after subsection (6):

Exception for
communal
organizations

(6.1) Subsections (1) to (4) do not apply to a builder of a residential complex or an addition to a residential complex where

(a) the builder is a community, society or body of individuals to which section 143 of the *Income Tax Act* applies; and

(b) the construction or substantial renovation of the complex or addition is carried out exclusively for the purpose of providing a place of residence for members of the community, society or body.

1990, c. 45, s.
12(1)

(2) The portion of subsection 191(7) of the Act after paragraph (a) is replaced by the following:

(b) the construction or substantial renovation of the complex or addition is carried out, or the complex is acquired, for the purpose of providing a place of residence or lodging for an individual at a location

(i) at which the individual is required to be in the performance of the individual's duties as

(A) an employee of the registrant,

(B) a contractor, or an employee of the contractor, engaged by the registrant to render services to the registrant at that location, or

(C) a subcontractor, or an employee of the subcontractor, engaged by a contractor referred to in clause (B) to render services at that location that are acquired by the contractor for the purpose of supplying services to the registrant, and

(ii) at which, because of its remoteness from any established community, the individual could not reasonably be expected to establish and maintain a self-contained domestic establishment, and

(c) the registrant makes, under this subsection, an election in prescribed form containing prescribed information in respect of the complex or addition,

until the complex is supplied by way of sale, or is supplied by way of lease, licence or similar arrangement primarily to persons who are not employees, contractors or subcontractors referred to in subparagraph (b)(i) who are acquiring the complex or residential units therein in the circumstances described in that subparagraph, the supply of the complex or a residential unit in the complex as a place of residence or lodging is deemed not to be a supply and any occupation of the complex or unit as a place of residence or lodging is deemed not to be occupation as a place of residence or lodging.

(3) Subsections (1) and (2) are deemed to have come into force on December 17, 1990.

38. (1) The Act is amended by adding the following after section 191:

Definitions

191.1 (1) The definitions in this subsection apply in this section.

"government
funding"
« *subvention* »

"government funding", in respect of a residential complex, means an amount of money (including a forgivable loan but not including any other loan or a refund or rebate of, or credit in respect of, taxes, duties or fees imposed under any statute) paid or payable by

(a) a grantor, or

(b) an organization that received the amount from a grantor or another organization that received the amount from a grantor,

to a builder of the complex or of an addition thereto for the purpose of making residential units in the complex available to individuals referred to in paragraph (2)(b).

"grantor"
« *subventionneur* »

"grantor" means

(a) a government or municipality, other than a corporation all or substantially all of whose activities are commercial activities or the supply of financial services or any combination thereof;

(b) a band (within the meaning assigned by section 2 of the *Indian Act*);

(c) a corporation that is controlled by a government, a municipality or a band referred to in paragraph (b) and one of the main purposes of which is to fund charitable or non-profit endeavours; and

(d) a trust, board, commission or other body that is established by a government, municipality, band referred to in paragraph (b) or corporation described in paragraph (c) and one of the main purposes of which is to fund charitable or non-profit endeavours.

Subsidized
residential
complexes

(2) For the purposes of subsections 191(1) to (4), where

(a) a builder of a residential complex or an addition thereto is deemed under any of subsections 191(1) to (4) to have, at any time, made and received a supply of the complex or addition,

(b) at least 10% of the residential units in the complex are intended to be supplied to

(i) seniors,

(ii) youths,

(iii) students,

(iv) individuals with a disability,

(v) individuals in distress or individuals in need of assistance,

(vi) individuals whose eligibility for occupancy of the units or for reduced lease payments is dependent on a means or income test,

(vii) individuals for whose benefit no other persons (other than public sector bodies) pay consideration for the supplies of the units and who either pay no consideration for the supplies or pay consideration that is significantly less than the consideration that could reasonably be expected to be paid for comparable supplies made by a person in the business of making such supplies for the purpose of earning a profit, or

(viii) any combination of individuals described in any of subparagraphs (i) to (vii), and

(c) except where the builder is a government or a municipality, the builder, at or before that time, has received or can reasonably expect to receive government funding in respect of the complex,

the amount of tax in respect of the supply calculated on the fair market value of the complex or addition, as the case may be, is deemed to be equal to the greater of

(d) 7% of the fair market value at that time of the complex or addition, as the case may be, and

(e) the total of all tax that was payable by the builder in respect of

(i) real property that forms part of the complex or addition, as the case may be, or

(ii) an improvement to that real property.

(2) Subsection (1) applies after April 23, 1996 but does not apply to a residential complex or an addition thereto where

(a) the builder of the complex or addition, as the case may be,

(i) received from a grantor on or before that day, or

(ii) because of a letter of intent, memorandum of understanding or other document received from a grantor on or before that day, has a reasonable expectation of receiving from the grantor

government funding in respect of the complex; and

(b) the construction or substantial renovation of the complex or addition, as the case may be, began on or before that day and is substantially completed on or before April 23, 1998.

39. (1) Section 193 of the Act is amended by adding the following after subsection (2):

Redemption of real property

(3) Where

(a) for the purposes of satisfying in whole or in part a debt or obligation owing by a person (in this subsection referred to as the "debtor"), a creditor exercises a right under an Act of Parliament or the legislature of a province or an agreement relating to a debt security to cause the supply of real property, and

(b) under the Act or the agreement, the debtor has a right to redeem the property,

the following rules apply:

(c) the debtor is not entitled to claim an input tax credit under this section in respect of the property unless the time limit for redeeming the property has expired and the debtor has not redeemed the property, and

(d) where the debtor is entitled to claim the input tax credit, that input tax credit is for the reporting period in which the time limit for redeeming the property expires.

(2) Subsection (1) is deemed to have come into force on April 24, 1996.

1993, c. 27, s.
63(1)

40. (1) Section 198 of the Act is replaced by the following:

Use in supply of
financial services

198. For the purposes of this Part, to the extent that a registrant who is neither a listed financial institution nor a person who is a financial institution because of paragraph 149(1)(b) uses property as capital property of the registrant in the making of supplies of financial services that relate to commercial activities of the registrant,

(a) where the registrant is a financial institution because of paragraph 149(1)(c), the registrant is deemed to use the property in those commercial activities only to the extent that the registrant does not use the property in activities of the registrant that relate to

(i) credit cards or charge cards issued by the registrant, or

(ii) the making of any advance, the lending of money or the granting of any credit; and

(b) in any other case, the registrant is deemed to use the property in those commercial activities.

(2) Subsection (1) applies in taxation years of registrants beginning after April 23, 1996.

40.1 (1) Paragraphs (a) and (b) of subsection 208(2) of the Act are renumbered as paragraphs (c) and (d) respectively and the portion of that subsection before paragraph (a) is replaced by the following:

Individual
beginning use in
commercial
activities

(2) For the purposes of this Part, where an individual who is a registrant last acquired real property for use as capital property of the individual and

(a) primarily for the personal use and enjoyment of the individual or a related individual, or

(b) not for use in commercial activities of the individual,

and the individual begins, at a particular time, to use the property as capital property in commercial activities of the individual and not primarily for the personal use and enjoyment of the individual or a related individual, the individual is deemed

(2) Subsection (1) is deemed to have come into force on October 1, 1992.

1993, c. 27, s.
81(1)

41. (1) Paragraph 215.1(1)(c) of the Act is replaced by the following:

(c) within two years after the day the tax was paid, the person files with the Minister an application, in prescribed form containing prescribed information, for a rebate of the tax,

1993, c. 27, s.
81(1)

(2) Paragraph 215.1(2)(d) of the Act is replaced by the following:

(d) within two years after the day the amount was paid as tax under this Division, the person files with the Minister an application, in prescribed form containing prescribed information, for a rebate of the amount,

1993, c. 27, s.
81(1)

(3) Paragraph 215.1(3)(d) of the Act is replaced by the following:

(d) within two years after the day the amount was paid as tax under this Division, the person files with the Minister an application, in prescribed form containing prescribed information, for a rebate of the amount,

(4) Subsections (1) to (3) apply to rebates in respect of amounts paid as tax after June 1996.

1993, c. 27, s.
82(1)

41.1 (1) Subsection 216(5) of the Act is replaced by the following:

Application of
Part IX and *Tax*
Court of Canada
Act

(5) The provisions of this Part and of the *Tax Court of Canada Act* that apply to an appeal taken under section 302 apply, with such modifications as the circumstances require, to an appeal taken under subsection 67(1) of the *Customs Act* from a decision of the Deputy Minister made under section 63 or 64 of that Act in a determination of the tax status of goods as if the decision of the Deputy Minister were a confirmation of an assessment or a reassessment made by the Minister under subsection 301(3) or (4) as a consequence of a notice of objection filed under subsection 301(1.1) by the person to whom the Deputy Minister is required to give notice under section 63 or 64 of the *Customs Act*, as the case may be, of the decision.

(2) Subsection (1) applies to any appeal from a decision made under section 63 or 64 of the *Customs Act* in respect of a determination of tax status made after April 1996.

1993, c. 27, s.
83(1)

42. (1) The portion of section 217 of the Act before paragraph (a) of the definition "imported taxable supply" is replaced by the following:

Meaning of
"imported taxable
supply"

217. In this Division, "imported taxable supply" means

(2) The portion of subparagraph (a)(iv) of the definition "imported taxable supply" in section 217 of the Act before clause (A) is replaced by the following:

(iv) a service (other than a custodial or nominee service in respect of securities or precious metals of the person) in respect of tangible personal property that is

1993, c. 27, s.
83(2)

(3) The portion of paragraph (b) of the definition "fourniture taxable importée" in section 217 of the French version of the Act before subparagraph (i) is replaced by the following:

b) la fourniture taxable d'un bien meuble corporel, sauf une fourniture détaxée ou visée par règlement, effectuée par une personne non-résidente qui n'est pas inscrite aux termes de la sous-section d de la section V, au profit d'un acquéreur qui est un inscrit, si les conditions suivantes sont réunies :

(4) The portion of paragraph (b.1) of the definition "fourniture taxable importée" in section 217 of the French version of the Act before subparagraph (i) is replaced by the following:

b.1) la fourniture taxable d'un bien meuble corporel, sauf une fourniture détaxée ou visée par règlement, effectuée, à un moment donné, par une personne non-résidente qui n'est pas inscrite aux termes de la sous-section d de la section V, au profit d'un acquéreur donné qui réside au Canada, si les conditions suivantes sont réunies :

(5) The portion of paragraph (c) of the definition "fourniture taxable importée" in section 217 of the French version of the Act before subparagraph (i) is replaced by the following:

c) la fourniture taxable d'un bien meuble incorporel, sauf une fourniture détaxée ou visée par règlement, effectuée à l'étranger au profit d'une personne qui réside au Canada, à l'exclusion de la fourniture d'un bien qui, selon le cas :

(6) The definition "reporting period" in section 217 of the Act is repealed.

(7) Subsections (1) to (6) are deemed to have come into force on January 1, 1997.

1990, c. 45, s.
12(1)

43. (1) Section 219 of the Act is replaced by the following:

Filing of returns
and payment of tax

219. Where tax under this Division is payable by a person,

(a) where the person is a registrant, the person shall, on or before the day on or before which the person's return under section 238 for the reporting period in which the tax became payable is required to be filed, pay the tax to the Receiver General and report the tax in that return; and

(b) in any other case, the person shall, on or before the last day of the month following the calendar month in which the tax became payable, pay the tax to the Receiver General and file with the Minister in prescribed manner a return in respect of the tax in prescribed form containing prescribed information.

(2) Subsection (1) is deemed to have come into force on January 1, 1997.

1990, c. 45, s.
12(1)

43.1 (1) Subsection 221(4) of the Act is replaced by the following:

Definitions

(4) In subsection (3), "continuous outbound freight movement" and "shipper" have the same meanings as in Part VII of Schedule VI.

(2) Subsection (1) is deemed to have come into force on December 17, 1990.

1990, c. 45, s.
12(1); 1993, c.
27, s. 203 (Sch.
I, item 1(a))

44. (1) Subsections 225(3) and (4) of the Act are replaced by the following:

Restriction

(3) An amount shall not be included in the total for B in the formula set out in subsection (1) for a particular reporting period of a person to the extent that the amount was claimed or included as an input tax credit or deduction in determining the net tax for a preceding reporting period of the person unless

(a) the person was not entitled to claim the amount in determining the net tax for the preceding period only because the person did not satisfy the requirements of subsection 169(4) in respect of the amount before the return for that preceding period was filed; and

(b) where the person is claiming the amount in a return for the particular reporting period and the Minister has not disallowed the amount as an input tax credit in assessing the net tax of the person for that preceding reporting period,

(i) the person reports in writing to the Minister, at or before the time the return for the particular reporting period is filed, that the person made an error in claiming that amount in determining the net tax of the person for that preceding period, and

(ii) where the person does not report the error to the Minister at least three months before the time limited by subsection 298(1) for assessing the net tax of the person for that preceding period expires, the person pays, at or before the time the return for the particular reporting period is filed, the amount and any applicable penalty and interest to the Receiver General.

Restriction

(3.1) An amount shall not be included in the total for B in the formula set out in subsection (1) for a reporting period of a person to the extent that, before the end of the period, the amount became refundable to the person under this or any other Act of Parliament or was remitted to the person under the *Financial Administration Act* or the *Customs Tariff*.

Limitation

(4) An input tax credit of a person for a particular reporting period of the person shall not be claimed by the person unless it is claimed in a return under this Division filed by the person on or before the day that is

(a) where the person is a specified person during the particular reporting period,

(i) if the input tax credit is in respect of property or a service supplied to the person by a supplier who did not, before the end of the particular reporting period, charge the tax in respect of the supply that became payable during the particular reporting period and the person pays that tax after the end of the particular reporting period and before the input tax credit is claimed, the earlier of

(A) the day on or before which the return under this Division is required to be filed for the last reporting period of the person that ends within two years after the beginning of the person's reporting period in which the supplier charges that tax to the person, and

(B) the day on or before which the return under this Division is required to be filed for the last reporting period of the person that ends within four years after the end of the particular reporting period,

(ii) if the input tax credit was claimed in a return under this Division filed, on or before the day on or before which the return under this Division is required to be filed for the last reporting period of the person that ends within two years after the beginning of the particular reporting period, by another person who was not entitled to claim it and the person has paid the tax payable in respect of the acquisition or importation of the property or service, the day on or before which the return under this Division is required to be filed for the last reporting period of the person that ends within four years after the end of the particular reporting period, and

(iii) in any other case, the day on or before which the return under this Division is required to be filed for the last reporting period of the person that ends within two years after the beginning of the particular reporting period;

(b) where the person is not a specified person during the particular reporting period, the day on or before which the return under this Division is required to be filed for the last reporting period of the person that ends within four years after the end of the particular reporting period; or

(c) where

(i) the input tax credit is in respect of property or a service supplied to the person by a supplier who did not, before the end of the last reporting period of the person that ends within four years after the end of the particular reporting period, charge the tax in respect of the supply that became payable during the particular reporting period and the supplier discloses in writing to the person that the Minister has assessed the supplier for that tax, and

(ii) the person pays that tax after the end of that last reporting period and before the input tax credit is claimed by the person,

the day on or before which the return under this Division is required to be filed for the reporting period of the person in which the person pays that tax.

Meaning of
"specified person"

(4.1) For the purposes of subsection (4), a person is a "specified person" during a reporting period of the person if

(a) the person is a listed financial institution during the reporting period, or

(b) the person's threshold amounts, determined in accordance with subsection 249(1), exceed \$6 million for both the person's fiscal year that includes the reporting period and the person's previous fiscal year,

unless, in the case of a person who is not a listed financial institution during the reporting period, the person is a charity during the reporting period or all or substantially all of the supplies made by the person during the reporting period (other than supplies of financial services) are taxable supplies.

(2) Subsections 225(3) and (3.1) of the Act, as enacted by subsection (1), are deemed to have come into force on April 23, 1996.

(3) Subsection 225(4) of the Act, as enacted by subsection (1), applies to

(a) input tax credits for reporting periods ending after June 1996;

(b) input tax credits for reporting periods ending before July 1996, other than input tax credits that are claimed in a return under Division V of Part IX of the Act filed on or before June 30, 1998; and

(c) input tax credits for reporting periods ending before July 1996 that are claimed in a return under that Division in the circumstances described in paragraph 225(4)(c) of the Act, as enacted by subsection (1).

(4) Subsection 225(4.1) of the Act, as enacted by subsection (1), is deemed to have come into force on July 1, 1996 and the reference to a "charity" in that subsection shall be interpreted as if the definitions "charity" and "public institution" in subsection 123(1) of the Act, as enacted by subsections 1(1) and (12) respectively, came into force on that day.

45. (1) The Act is amended by adding the following after section 225:

Meaning of
"specified supply"

225.1 (1) In this section, "specified supply" means a taxable supply other than

(a) a supply by way of sale of real property or capital property;

(b) a supply deemed under section 175.1 or 181.1 or subsection 183(5) or (6) to have been made; and

(c) a supply to which subsection 172(2) or 173(1) applies.

Net tax

(2) Subject to subsection (7), the net tax for a particular reporting period of a charity that is a registrant is equal to the positive or negative amount determined by the formula

A - B

where

A is the total of

(a) 60% of the total of all amounts that became collectible and all other amounts collected by the charity in the particular reporting period as or on account of tax in respect of specified supplies made by the charity,

(b) the total of all amounts that became collectible and all other amounts collected by the charity in the particular reporting period as or on account of tax in respect of

(i) supplies by way of sale of capital property or real property made by the charity,

(ii) supplies by the charity to which subsection 172(2) or 173(1) applies, and

(iii) supplies made by the charity acting as agent for another person and in respect of which the charity has made an election under subsection 177(1.1),

(c) all amounts in respect of supplies of real property or capital property made by way of sale to the charity that are required under subsection 231(3) or 232(3) to be added in determining the net tax for the particular reporting period, and

(d) the amount required under subsection 238.1(4) to be added in determining the net tax for the particular reporting period; and

B is the total of

(a) all input tax credits of the charity for the particular reporting period and preceding reporting periods in respect of

(i) real property acquired by the charity by way of purchase,

(ii) personal property imported or acquired by way of purchase by the charity for use as capital property, and

(iii) improvements to real property or capital property of the charity

that are claimed in the return under this Division filed for the particular reporting period,

(b) 60% of the total of all amounts in respect of specified supplies that may be deducted by the charity under subsection 232(3) or 234(2) in determining the net tax for the particular reporting period and are claimed in the return under this Division filed for that reporting period,

(c) the total of all amounts in respect of supplies of real property or capital property made by way of sale by the charity that may be deducted by the charity under subsection 231(1) or 232(3) or section 234 in determining the net tax for the particular reporting period and are claimed in the return under this Division filed for that reporting period, and

(d) the total of all amounts each of which is an input tax credit (other than an input tax credit referred to in paragraph (a)) of the charity, for a preceding reporting period in respect of which this subsection did not apply for the purpose of determining the net tax of the charity, that the charity was entitled to include in determining its net tax for that preceding reporting period and that is claimed in the return under this Division filed for the particular reporting period.

Restriction

(3) An amount shall not be included in determining a total under the description of A in subsection (2) for a reporting period of a charity to the extent that that amount was included in that total for a preceding reporting period of the charity.

Restriction

(4) An amount shall not be included in the total for B in the formula set out in subsection (2) for a particular reporting period of a charity to the extent that the amount was claimed or included as an input tax credit or deduction in determining the net tax for a preceding reporting period of the charity unless

(a) the charity was not entitled to claim the amount in determining the net tax for that preceding period only because the charity did not satisfy the requirements of subsection 169(4) in respect of the amount before the return for that preceding period was filed; and

(b) where the charity is claiming the amount in a return for the particular reporting period and the Minister has not disallowed the amount as an input tax credit in assessing the net tax of the charity for that preceding reporting period,

(i) the charity reports in writing to the Minister, at or before the time the return for the particular reporting period is filed, that the charity made an error in claiming that amount in determining the net tax of the charity for that preceding period, and

(ii) where the charity does not report the error to the Minister at least three months before the time limited by subsection 298(1) for assessing the net tax of the charity for that preceding period expires, the charity pays, at or before the time the return for the particular reporting period is filed, the amount and any applicable penalty and interest to the Receiver General.

Restriction

(4.1) An amount shall not be included in the total for B in the formula set out in subsection (2) for a reporting period of a charity to the extent that, before the end of the period, the amount became refundable to the charity under this or any other Act of Parliament or was remitted to the charity under the *Financial Administration Act* or the *Customs Tariff*.

Application

(5) Sections 231 to 236 do not apply for the purpose of determining the net tax of a charity in accordance with subsection (2) except as otherwise provided in this section.

Election

(6) Where a charity that makes supplies outside Canada, or zero-rated supplies, in the ordinary course of a business or all or substantially all of whose supplies are taxable supplies elects not to determine its net tax in accordance with subsection (2), that subsection does not apply in respect of any reporting period of the charity during which the election is in effect.

Form and content of election

(7) An election under subsection (6) by a charity shall

(a) be filed in prescribed manner with the Minister in prescribed form containing prescribed information;

(b) set out the day the election is to become effective, which day shall be the first day of a reporting period of the charity;

(c) remain in effect until a revocation of the election becomes effective; and

(d) be filed

(i) where the first reporting period of the charity in which the election is in effect is a fiscal year of the charity, on or before the first day of the second fiscal quarter of that year or such later day as the Minister may determine on application of the charity, and

(ii) in any other case, on or before the day on or before which the return of the charity is required to be filed under this Division for the first reporting period of the charity in which the election is in effect or on such later day as the Minister may determine on application of the charity.

Revocation

(8) An election under subsection (6) by a charity may be revoked, effective on the first day of a reporting period of the charity, provided that that day is not earlier than one year after the election became effective and a notice of revocation of the election in prescribed form containing prescribed information is filed in prescribed manner with the Minister on or before the day on or before which the return under this Division is required to be filed for the last reporting period of the charity in which the election is in effect.

Restriction on input tax credits

(9) Where an election under subsection (6) by a charity becomes effective on a day, an amount

(a) that is an input tax credit of the charity, or

(b) that is in respect of a specified supply and may be deducted by the charity under subsection 232(3) or 234(2) in determining the net tax of the charity,

for a reporting period ending before that day and that is not claimed in a return for any reporting period ending before that day shall not be claimed by the charity in a return for a reporting period ending after that day except to the extent that the charity was entitled to include the amount in the total determined for B in the formula in subsection (2) for any reporting period ending before that day.

Streamlined input tax credit calculation

(10) Where a charity is a prescribed person for the purposes of subsection 259(12) during a reporting period of the charity, any input tax credit that the charity is entitled to claim in a return for that reporting period may be determined in accordance with Part V.1 of the *Streamlined Accounting (GST) Regulations* as if the charity had made a valid election under section 227 that is in effect at all times while the charity is a prescribed person.

(2) Subsection (1) applies for the purpose of determining the net tax of a charity for reporting periods beginning after 1996.

1990, c. 45, s.
12(1)

46. (1) Subsection 227(1) of the Act is replaced by the following:

Election for
streamlined
accounting

227. (1) A registrant (other than a charity) who is a prescribed registrant or a member of a prescribed class of registrants may elect to determine the net tax of the registrant for a reporting period during which the election is in effect by a prescribed method.

(2) Section 227 of the Act is amended by adding the following after subsection (5):

Restriction on
input tax credits

(6) Sections 231 to 236 do not apply for the purpose of determining the net tax of a registrant for a reporting period during which an election made by the registrant under subsection (1) is in effect, except as otherwise provided in the *Streamlined Accounting (GST) Regulations*.

(3) Subsection (1) applies for the purpose of determining the net tax for any reporting period of a charity beginning after 1996 and any election by the charity under subsection 227(1) of the Act that would, but for this subsection, have been in effect at the beginning of the first reporting period of the charity beginning after 1996 is deemed to have ceased to have effect immediately before that reporting period.

(4) Subsection (2) is deemed to have come into force on December 17, 1990.

1993, c. 27, s.
91(2)

47. (1) Subsection 228(4) of the Act is replaced by the following:

Self-assessment on
acquisition of
real property

(4) Where tax under Division II is payable by a person in respect of a supply of real property and the supplier is not required to collect the tax and is not deemed to have collected the tax,

(a) where the person is a registrant and acquired the property for use or supply primarily in the course of commercial activities of the person, the person shall, on or before the day on or before which the person's return for the reporting period in which the tax became payable is required to be filed, pay the tax to the Receiver General and report the tax in that return; and

(b) in any other case, the person shall, on or before the last day of the month following the calendar month in which the tax became payable, pay the tax to the Receiver General and file with the Minister in prescribed manner a return in respect of the tax in prescribed form containing prescribed information.

1990, c. 45, s.
12(1)

(2) Subsections 228(6) and (7) of the Act are replaced by the following:

Set-off of refunds
or rebates

(6) Where at any time a person files a particular return under this Part in which the person reports an amount (in this subsection referred to as the "remittance amount") that is required to be remitted under subsection (2) or paid under subsection (4) or Division IV by the person and the person claims a refund or rebate payable to the person at that time under this Part (other than Division III) in the particular return or in another return, or in an application, filed under this Part with the particular return, the person is deemed to have remitted at that time on account of the person's remittance amount, and the Minister is deemed to have paid at that time on account of the refund or rebate, an amount equal to the lesser of the remittance amount and the amount of the refund or rebate.

Refunds and
rebates of another
person

(7) A person may, in prescribed circumstances and subject to prescribed conditions and rules, reduce or offset the tax that is required to be remitted under subsection (2) or paid under subsection (4) or Division IV by that person at any time by the amount of any refund or rebate to which another person may at that time be entitled under this Part.

(3) Subsection (1) is deemed to have come into force on April 23, 1996 except that, before January 1, 1997, the reference in paragraph 228(4)(a) of the Act, as enacted by subsection (1), to "report the tax in that return" shall be read as a reference to "file with the Minister in prescribed manner a return in respect of the tax in prescribed form containing prescribed information".

(4) Subsection (2) is deemed to have come into force on April 23, 1996.

1990, c. 45, s.
12(1)

48. (1) Subsection 230(1) of the Act is replaced by the following:

Refund of payment

230. (1) Where a person has paid instalments for a reporting period of the person, or any other amounts on account of the person's net tax for the period, that exceed the amount of the net tax remittable by the person for the period and the person claims a refund of the excess in a return for the period filed under this Division by the person, the Minister shall refund the excess to the person with all due dispatch after the return is filed.

1990, c. 45, s.
12(1)

(2) The portion of subsection 230(2) of the Act before paragraph (a) is replaced by the following:

Restriction

(2) An amount paid on account of net tax for a reporting period of a person shall not be refunded to the person under subsection (1) until such time as

1990, c. 45, s.
12(1)

(3) Subsection 230(3) of the Act is replaced by the following:

Interest on refund

(3) Where a refund of an amount that was paid on account of net tax for a reporting period of a person is paid to the person under subsection (1), interest at the prescribed rate shall be paid to the person on the refund for the period beginning on the day that is twenty-one days after the later of

(a) the day the return for the reporting period is filed with the Minister, and

(b) the day the requirement under subsection (2) is fulfilled,

and ending on the day the refund is paid.

(4) Subsections (1) to (3) are deemed to have come into force on April 23, 1996 and apply to any amount paid by the Minister of National Revenue on or after that day.

1993, c. 27, s.
92(1)

49. (1) Paragraph 230.2(2)(d) of the Act is replaced by the following:

(d) 25% of the total of all amounts that became collectible, or were collected without having become collectible, by the registrant in the particular period and in 1994 or 1995 as or on account of tax under Division II in respect of specified property.

(2) Subsection (1) is deemed to have come into force on January 1, 1995.

1990, c. 45, s.
12(1)

50. (1) Section 231 of the Act is replaced by the following:

Bad debts

231. (1) Where a person has made a taxable supply (other than a zero-rated supply) for consideration to a recipient with whom the person was dealing at arm's length, to the extent that it is established that the consideration and tax payable in respect of the supply have become in whole or in part a bad debt, the person may, in determining the net tax for the person's reporting period in which the bad debt is written off in the person's books of account or for a subsequent reporting period, deduct the amount determined by the formula

$$A \times B/C$$

where

A is the tax payable in respect of the supply,

B is the total of the consideration, tax and any amount that can reasonably be attributed to a tax imposed under an Act of the legislature of a province

that is a prescribed tax for the purposes of section 154 (referred to in this section as "applicable provincial tax") remaining unpaid in respect of the supply that was written off as a bad debt, and

C is the total of the consideration, tax and applicable provincial tax payable in respect of the supply,

provided the person reports the tax collectible in respect of the supply in the person's return under this Division for the reporting period in which the tax became collectible and remits all net tax, if any, remittable as reported in that return.

Bad debts

(2) Where a financial institution that is a member of a closely related group or of a prescribed group has at any time purchased an account receivable at face value and on a non-recourse basis from another person that was at that time a member of the group, to the extent that it is established that the account receivable has become in whole or in part a bad debt, the institution may, in determining its net tax for its reporting period in which the bad debt is written off in its books of account or for a subsequent reporting period, deduct an amount to the extent that the other person could have so deducted an amount under subsection (1) if that other person had not sold the account receivable and had written off the bad debt in that other person's books of account.

Recovery of bad debt

(3) Where a person recovers all or part of a bad debt in respect of which the person has made a deduction under subsection (1) or (2), the person shall, in determining the net tax for the reporting period of the person in which the bad debt or part thereof is recovered, add the amount determined by the formula

$$A \times B/C$$

where

A is the amount of the bad debt recovered by the person;

B is the tax payable in respect of the supply to which the bad debt relates; and

C is the total of the consideration, tax and applicable provincial tax payable in respect of the supply.

Limitation

(4) A person may not claim a deduction under subsection (1) or (2) in respect of an amount that the person has, during a particular reporting period of the person, written off in its books of account as a bad debt unless the deduction is claimed in a return under this Division filed by the person within two years after the day on or before which the return under this Division for the particular reporting period is required to be filed.

(2) Subsection (1) applies for the purpose of determining the net tax for any reporting period for which a return is filed after April 23, 1996, except that

(a) in relation to amounts written off as bad debts on or before that day, subsection 231(2) of the Act, as enacted by subsection (1), does not apply; and

(b) in relation to amounts written off as bad debts before July 1996, the reference in subsection 231(4) of the Act, as enacted by subsection (1), to "two years" shall be read as a reference to "four years".

1990, c. 45, s.
12(1)

51. (1) The portion of subsection 232(1) of the Act before paragraph (a) is replaced by the following:

Refund or
adjustment of tax

232. (1) Where a particular person has charged to, or collected from, another person an amount as or on account of tax under Division II in excess of the tax under that Division that was collectible by the particular person from the other person, the particular person may, within two years after the day the amount was so charged or collected,

1990, c. 45, s.
12(1)

(2) The portion of subsection 232(2) of the Act before paragraph (a) is replaced by the following:

Adjustment

(2) Where a particular person has charged to, or collected from, another person tax under Division II calculated on the consideration or a part thereof for a supply and, for any reason, the consideration or part is subsequently reduced, the particular person may, within two years after the day the consideration was so reduced,

(3) Subsection (1) applies

(a) to amounts charged or collected as tax under Division II of Part IX of the Act after June 1996; and

(b) to amounts charged or collected as tax under that Division before July 1996, other than amounts that are adjusted, refunded or credited on or before June 30, 1998 in accordance with subsection 232(1) of the Act as it read on June 30, 1996.

(4) Subsection (2) applies to reductions in consideration after June 1996.

1993, c. 27, s.
95(1)

52. (1) Subsection 234(1) of the Act is replaced by the following:

Deduction for
rebate

234. (1) Where, in the circumstances described in subsection 252.41(2), 254(4) or 254.1(4), a registrant pays to, or credits in favour of, a person an amount on account of a rebate and transmits the application of the person for the rebate to the Minister in accordance with subsection 252.41(2), 254(5) or 254.1(5), as the case requires, the registrant may deduct the amount in determining the net tax of the registrant for the reporting period in which the amount is paid or credited.

(2) Subsection (1) applies after April 23, 1996.

1994, c. 9, s.
14(1)

53. (1) Subsection 236(2) of the Act is replaced by the following:

Exception

(2) Subsection (1) does not apply to a charity or a public institution.

(2) Subsection (1) applies to supplies of food, beverages or entertainment received, and allowances paid, by a registrant after 1996.

1993, c. 27, s.
100(1)

54. (1) Paragraph 240(3)(b) of the Act is replaced by the following:

(b) is a non-resident person who in the ordinary course of carrying on business outside Canada

(i) regularly solicits orders for the supply by the person of tangible personal property for export to, or delivery in, Canada, or

(ii) has entered into an agreement for the supply by the person of

(A) services to be performed in Canada, or

(B) intangible personal property to be used in Canada or that relates to

(I) real property situated in Canada,

(II) tangible personal property ordinarily situated in Canada, or

(III) services to be performed in Canada;

1990, c. 45, s.
12(1)

(2) Subsection 240(6) of the Act is replaced by the following:

Security

(6) Every person who

(a) is not resident in Canada or would not, but for subsection 132(2), be resident in Canada,

(b) does not have a permanent establishment in Canada or would not, but for paragraph (b) of the definition "permanent establishment" in subsection 123(1), have such an establishment, and

(c) applies or is required to be registered for the purposes of this Part

shall give and thereafter maintain security, in an amount and a form satisfactory to the Minister, that the person will pay or remit all amounts payable or remittable by the person under this Part.

Failure to comply

(7) Where, at any time, a person referred to in subsection (6) fails to give or maintain, as required under that subsection, security in an amount satisfactory to the Minister, the Minister may retain as security, out of any amount that may be or may become payable under this Part to the person, an amount not exceeding the amount by which

(a) the amount of security that would, at that time, be satisfactory to the Minister if it were given by the person in accordance with that subsection

exceeds

(b) the amount of security, if any, given and maintained by the person in accordance with that subsection,

and the amount so retained is deemed

(c) to have been paid, at that time, by the Minister to the person, and

(d) to have been given, immediately after that time, by the person as security in accordance with subsection (6).

(3) Subsection (1) applies after April 23, 1996.

1990, c. 45, s.
12(1)

55. (1) Subsection 245(1) of the Act is replaced by the following:

Reporting period
of non-registrant

245. (1) Subject to section 251, the reporting period of a person who is not a registrant is a calendar month.

1990, c. 45, s.
12(1)

(2) The portion of subsection 245(2) of the Act before paragraph (a) is replaced by the following:

Reporting period
of registrant

(2) Subject to subsection 248(3) and sections 251 and 265 to 267, the reporting period of a registrant at a particular time in a fiscal year of the registrant is

1994, c. 9, s.
17(1)

(3) Paragraph 245(2)(a) of the Act is amended by striking out the word "or" at the end of subparagraph (i) and by replacing subparagraph (ii) with the following:

(ii) the registrant has not made an election under section 246 or 247 that is effective at that time, an election under section 248 by the registrant would be effective at that time if the registrant had made such an election at the beginning of the fiscal year of the registrant that includes that time and, except where the reporting period of the registrant that includes that time is deemed under subsection 251(1) or any of sections 265 to 267

to be a separate reporting period, the last reporting period of the registrant ending before that time was a fiscal year of the registrant,

(4) Paragraph 245(2)(a) of the Act is amended by adding the following after subparagraph (ii):

(iii) the registrant is a charity and has not made an election under section 246 or 247 that is effective at that time, or

(iv) the registrant is a listed financial institution described in any of subparagraphs 149(1)(a)(i) to (x) and has not made an election under section 246 or 247 that is effective at that time,

1993, c. 27, s.
105(1)

(5) Subparagraph 245(2)(b)(i) of the Act is replaced by the following:

(i) the threshold amount of the registrant for the fiscal year or fiscal quarter of the registrant that includes that time exceeds \$6,000,000 and the registrant is neither a listed financial institution described in any of subparagraphs 149(1)(a)(i) to (x) nor a charity,

1993, c. 27, s.
105(1)

(6) The portion of paragraph 245(2)(b) of the English version of the Act after subparagraph (iii) is replaced by the following:

the fiscal month of the registrant that includes that time; and

1993, c. 27, s.
105(1)

(7) Paragraph 245(2)(c) of the Act is repealed and paragraph 245(2)(d) of the Act is renumbered as paragraph 245(2)(c).

(8) Subsection (1) applies to fiscal years beginning after April 23, 1996.

(9) Subsections (2) and (3) apply after 1992.

(10) Subsections (4) to (7) apply to fiscal years beginning after 1996.

1990, c. 45, s.
12(1)

56. (1) Subsection 247(1) of the Act is replaced by the following:

Election for
fiscal quarters

247. (1) A person that is a charity on the first day of a fiscal year of the person or whose threshold amount for a fiscal year does not exceed \$6,000,000 may make an election to have reporting periods that are fiscal quarters of the person, to take effect

(a) where the person is a registrant on the first day of that fiscal year, that day; or

(b) on the day in that fiscal year that the person becomes a registrant.

1990, c. 45, s.
12(1)

(2) Paragraphs 247(2)(b) and (c) of the Act are replaced by the following:

(b) where the person is not a charity, the beginning of the first fiscal quarter of the person for which the threshold amount of the person exceeds \$6,000,000, and

(c) where the person is not a charity, the beginning of the first fiscal year of the person for which the threshold amount of the person exceeds \$6,000,000.

(3) Subsection (1) is deemed to have come into force on April 23, 1996 except that in determining a person's reporting period for fiscal years beginning before 1997, subsection 247(1) of the Act, as enacted by subsection (1), shall be read without reference to "that is a charity on the first day of a fiscal year of the person or".

(4) Subsection (2) applies to fiscal years beginning after 1996.

1994, c. 9, s.
18(1)

57. (1) Subsection 248(1) of the Act is replaced by the following:

Election for
fiscal years

248. (1) A registrant that is a charity on the first day of a fiscal year of the registrant or whose threshold amount for a fiscal year does not exceed \$500,000 may make an election to have reporting periods that are fiscal years of the registrant, to take effect on the first day of that fiscal year.

1990, c. 45, s.
12(1)

(2) Paragraphs 248(2)(b) and (c) of the Act are replaced by the following:

(b) where the person is not a charity and the threshold amount of the person for the second or third fiscal quarter of the person in a fiscal year of the person exceeds \$500,000, the beginning of the first fiscal quarter of the person for which the threshold amount exceeds that amount, and

(c) where the person is not a charity and the threshold amount of the person for a fiscal year of the person exceeds \$500,000, the beginning of that fiscal year.

(3) Subsection (1) applies to fiscal years beginning after March 1994 except that in respect of fiscal years beginning before 1997, subsection 248(1) of the Act, as enacted by subsection (1), shall be read without reference to "that is a charity on the first day of a fiscal year of the registrant or".

(4) Subsection (2) is deemed to have come into force on January 1, 1997.

1993, c. 27, s.
107(1)

58. (1) Paragraph 252(1)(a) of the Act is repealed and paragraphs 252(1)(b) to (d) are renumbered as 252(1)(a) to (c) respectively.

(2) Subsection (1) applies to property acquired after April 23, 1996.

1993, c. 27, s.
107(1)

59. (1) Subsection 252.1(1) of the Act is replaced by the following:

Meaning of "tour
package"

252.1 (1) In this section and section 252.2, "tour package" has the meaning assigned by subsection 163(3), but does not include a tour package that includes a convention facility or related convention supplies.

1993, c. 27, s.
107(1)

(2) Subsection 252.1(2) of the Act is replaced by the following:

Accommodation
rebate to
non-resident
persons

(2) Where

(a) a non-resident person is the recipient of a supply made by a registrant of short-term accommodation or a tour package that includes short-term accommodation,

(b) the accommodation or tour package is acquired by the person otherwise than for supply in the ordinary course of a business of the person of making such supplies, and

(c) the accommodation is made available to a non-resident individual,

the Minister shall, subject to subsection (8) and section 252.2, pay a rebate to the person equal to the tax paid by the person in respect of the accommodation.

1993, c. 27, s.
107(1)

(3) Paragraph 252.1(3)(d) of the Act is replaced by the following:

(d) the accommodation is made available to a non-resident individual,

1993, c. 27, s.
107(1)

(4) The portion of subsection 252.1(4) of the Act before the formula is replaced by the following:

Tax paid in
respect of
accommodation

(4) For the purposes of subsection (2), where, in an application filed by a person for rebates under that subsection in respect of one or more supplies of short-term accommodation in respect of which tax was paid by the person and that is neither acquired by the person for use in the course of a business of the person nor included in a tour package, the person elects to have any of those rebates determined in accordance with the formula set out in this subsection, the

amount of tax paid in respect of each of those supplies of short-term accommodation is deemed to be equal to the amount determined by the formula

(5) The description of A in subsection 252.1(4) of the French version of the Act is replaced by the following:

A représente le nombre de nuits pour lesquelles le logement est mis à la disposition d'un particulier aux termes de la convention portant sur la fourniture.

(6) The description of A in paragraph 252.1(5)(a) of the French version of the Act is replaced by the following:

A représente le nombre de nuits pour lesquelles le logement provisoire compris dans le voyage a été mis à la disposition d'un particulier aux termes de la convention portant sur la fourniture;

(7) The description of B in paragraph 252.1(5)(b) of the French version of the Act is replaced by the following:

B représente le nombre de nuits pour lesquelles le logement provisoire compris dans le voyage a été mis à la disposition d'un particulier aux termes de la convention portant sur la fourniture,

(8) The description of C in paragraph 252.1(5)(b) of the Act is replaced by the following:

C is the number of nights the non-resident individual to whom the accommodation is made available spends in Canada during the period commencing on the earlier of the first day on which overnight lodging included in the tour package is made available to the individual and the first day any overnight transportation service included in the tour package is rendered to the individual and ending on the later of the last day such lodging is made available to the individual and the last day any such transportation service is rendered to the individual, and

(9) Subsections 252.1(6) and (7) of the Act are replaced by the following:

Multiple supplies
of accommodation
for the same night

(6) For the purpose of determining, in accordance with the formula set out in subsection (4), the amount of a rebate payable under subsection (2) to a consumer of short-term accommodation, where a registrant makes a particular supply to the consumer of short-term accommodation that is made available to the consumer for any night, any other supply by the registrant to the consumer of short-term accommodation that is made available to the consumer for the same night is deemed not to be a supply separate from the particular supply.

Multiple supplies
of accommodation
for the same night

(7) For the purpose of determining, in accordance with the formula set out in paragraph (5)(a), the amount of a rebate payable under subsection (2) to a consumer of a tour package that includes short-term accommodation, where a registrant makes a supply to the consumer of a particular tour package that includes short-term accommodation that is made available to the consumer for any night, any other short-term accommodation that is included in another tour package supplied by the registrant to the consumer and made available to the

consumer for the same night is deemed to be included in the particular tour package and not in any other tour package.

1993, c. 27, s.
107(1)

(10) Paragraph 252.1(8)(a) of the Act is replaced by the following:

(a) a registrant makes a supply of short-term accommodation or a tour package that includes short-term accommodation to a non-resident recipient who either is an individual or is acquiring the accommodation or tour package for use in the course of a business of the recipient or for supply in the ordinary course of a business of the recipient of making such supplies,

1993, c. 27, s.
107(1)

(11) Clause 252.1(8)(d)(ii)(A) of the French version of the Act is replaced by the following:

(A) par l'acquéreur à l'inscrit au moins quatorze jours avant le premier jour où un logement provisoire compris dans le voyage est mis à la disposition d'un particulier aux termes de la convention portant sur la fourniture du voyage,

(12) Subsection (1) is deemed to have come into force on December 17, 1990.

(13) Subsections (2) to (11) apply to any rebate under section 252.1 of the Act for which an application is received by the Minister of National Revenue after April 23, 1996.

1993, c. 27, s.
107(1)

60. (1) Paragraph 252.2(e) of the Act is replaced by the following:

(d.1) in the case of a rebate under subsection 252(1), each receipt that substantiates that rebate includes tax, totalling at least \$3.50, in respect of supplies that are otherwise eligible for a rebate under that subsection;

(e) the total of all rebates for which the application is made is at least \$14;

1993, c. 27, s.
107(1)

(2) Paragraph 252.2(g) of the Act is replaced by the following:

(g) the total of all rebates for which the application is made that are in respect of short-term accommodation included in tour packages and that are determined in accordance with the formula set out in paragraph 252.1(5)(a) does not exceed

(i) where the person is a consumer of the tour packages, \$75, and

(ii) in any other case, \$75 for each individual to whom the accommodation is made available.

(3) Subsection (1) applies to any rebate for which an application is received by the Minister of National Revenue after June 1996.

(4) Subsection (2) applies to any rebate under section 252.1 of the Act for which an application is received by the Minister of National Revenue after April 23, 1996.

61. (1) The Act is amended by adding the following after section 252.4:

Non-resident
rebate respecting
installation
services

252.41 (1) Where tangible personal property is supplied on an installed basis by a non-resident supplier who is not registered under Subdivision d of Division V to a particular person who is so registered and the supplier or another non-resident person who is not so registered is the recipient of a taxable supply in Canada of a service of installing, in real property located in Canada, the tangible personal property so that it can be used by the particular person,

(a) the Minister shall, on the application of the non-resident recipient of the service filed within one year after the completion of the service, pay a rebate to the non-resident recipient equal to the tax paid by the non-resident recipient in respect of the supply of the service to the non-resident recipient; and

(b) the particular person is deemed, for the purposes of this Part, to have received from the non-resident supplier of the tangible personal property a taxable supply of the service that is separate from and not incidental to the supply of the property and is for consideration equal to that part of the total consideration paid or payable by the particular person for the property and the installation of the property that can reasonably be attributed to the installation.

Application to
supplier

(2) Where a non-resident person submits to a supplier an application for a rebate under subsection (1) to which the non-resident person would be entitled in respect of a supply made by the supplier to the non-resident person if the non-resident person had paid the tax in respect of the supply and had applied for the rebate in accordance with that subsection, the supplier may pay to, or credit in favour of, the non-resident person the amount of the rebate in which event the supplier shall transmit the application to the Minister with the supplier's return filed under Division V for the reporting period in which the rebate is paid or credited and interest under subsection 297(4) is not payable in respect of the rebate.

Joint and several
liability

(3) Where, under subsection (2), a supplier pays to, or credits in favour of, a person an amount on account of a rebate and the supplier knows or ought to know that the person is not entitled to the rebate or that the amount paid or credited exceeds the rebate to which the person is entitled, the supplier and the person are jointly and severally liable to pay to the Receiver General under section 264 the amount that was paid or credited on account of the rebate or the excess amount, as the case may be.

(2) Subsection (1) applies to supplies of services made after April 23, 1996.

1993, c. 27, s.
108(1)

62. (1) Paragraphs 253(1)(a) and (b) of the Act are replaced by the following:

(a) a musical instrument, motor vehicle, aircraft or any other property or a service is or would, but for subsection 272.1(1), be regarded as having been acquired or imported by an individual who is

(i) a member of a partnership that is a registrant, or

(ii) an employee of a registrant (other than a listed financial institution),

(a.1) in the case of an individual who is a member of a partnership, the acquisition or importation is not on the account of the partnership,

(b) the individual has paid the tax payable in respect of the acquisition or importation, and

1993, c. 27, s.
108(1)

(2) The formula in subsection 253(1) of the Act is replaced by the following:

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

(3) Subsection 253(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 the total of all amounts that the individual received or is entitled to receive from the individual's employer or the partnership, as the case may be, as a reimbursement in respect of the amount that was so deducted.

(4) Subsections (1) to (3) are deemed to have come into force on December 17, 1990 but do not apply for the purpose of determining any rebate under section 253 of the Act that was claimed in an application received by the Minister of National Revenue before April 23, 1996 (other than an application deemed under paragraph 296(5)(a) of the Act to have been filed as a result of an assessment made after that day).

1990, c. 45, s.
12(1)

63. (1) Subsection 254(3) of the Act is replaced by the following:

Application for
rebate

(3) A rebate shall not be paid in respect of a residential complex or residential condominium unit under subsection (2) to an individual unless the individual has filed an application for the rebate within two years after the day ownership of the complex or unit was transferred to the individual.

1990, c. 45, s.
12(1)

(2) Paragraph 254(4)(c) of the Act is replaced by the following:

(c) the individual, within two years after the day ownership of the complex or unit was transferred to the individual under the agreement for the supply, submits to the builder in prescribed manner an application in prescribed form containing prescribed information for the rebate to which the individual would

be entitled under subsection (2) in respect of the complex or unit if the individual applied therefor within the time allowed for such an application,

(3) Subsections (1) and (2) apply to any rebate in respect of a residential complex ownership of which is transferred after June 1996 to the applicant for the rebate.

1993, c. 27, s.
110

64. (1) The definition "long term lease" in subsection 254.1(1) of the Act is replaced by the following:

"long-term lease"
« *bail de longue
durée* »

"long-term lease", in respect of land, means a lease under which continuous possession of the land is provided for a period of at least twenty years or a lease that contains an option to purchase the land;

1993, c. 27, s.
110(1)

(2) The portion of paragraph 254.1(2)(a) of the Act before subparagraph (ii) is replaced by the following:

(a) under an agreement entered into between a particular individual and a builder of a residential complex that is a single unit residential complex or a residential condominium unit, the builder makes an exempt supply to the particular individual

(i) by way of a long-term lease of, or by way of an assignment of a long-term lease of, the land attributable to the complex, and

(3) Section 254.1 of the Act is amended by adding the following after subsection (2):

Exception

(2.1) A rebate under subsection (2) shall not be paid in respect of a residential complex where the builder of the complex is not required, because of an Act of Parliament (other than this Act) or any other law, to pay or remit the tax that the builder is deemed to have paid and collected under subsection 191(1) in respect of a supply of the complex deemed to have been made under that subsection.

1993, c. 27, s.
110(1)

(4) Subsection 254.1(3) of the Act is replaced by the following:

Application for
rebate

(3) A rebate shall not be paid in respect of a residential complex under subsection (2) to an individual unless the individual has filed an application for the rebate within two years after the day possession of the complex was transferred to the individual.

1993, c. 27, s.
110(1)

(5) Paragraph 254.1(4)(b) of the Act is replaced by the following:

(b) the individual, within two years after the day possession of the complex is transferred to the individual under the agreement for the supply, submits to the builder in prescribed manner an application in prescribed form containing prescribed information for the rebate to which the individual would be entitled under subsection (2) in respect of the complex if the individual applied for it within the time allowed for such an application, and

(6) Subsection (1) is deemed to have come into force on September 15, 1992 but does not apply for the purpose of determining any amount claimed (other than an amount deemed under paragraph 296(5)(a) of the Act to have been claimed as a result of an assessment made after April 23, 1996) in a return under Division V, or in an application under Division VI, of Part IX of the Act received by the Minister of National Revenue before April 23, 1996.

(7) Subsection (2) applies to any rebate for which an application is filed with the Minister of National Revenue on or after April 23, 1996.

(8) Subsection (3) is deemed to have come into force on December 17, 1990 but does not apply to a rebate for which an application (other than an application deemed under paragraph 296(5)(a) of the Act to have been filed as a result of an assessment made after April 23, 1996) was received by the Minister of National Revenue before April 23, 1996.

(9) Subsections (4) and (5) apply to any rebate in respect of a residential complex possession of which is transferred after June 1996 to the applicant for the rebate.

1990, c. 45, s.
12(1); 1993, c.
27, s. 111(4)(F)

65. (1) Subsection 255(3) of the Act is replaced by the following:

Application for
rebate

(3) A rebate shall not be paid in respect of a share of the capital stock of a cooperative housing corporation under subsection (2) to an individual unless the individual files an application for the rebate within two years after the day ownership of the share was transferred to the individual.

(2) Subsection (1) applies to any rebate in respect of a share of the capital stock of a cooperative housing corporation ownership of which is transferred after June 1996 to the applicant for the rebate.

1990, c. 45, s.
12(1); c. 27, s.
112(2)(F)

66. (1) Paragraph 256(2)(a) of the Act is replaced by the following:

(a) a particular individual constructs or substantially renovates, or engages another person to construct or substantially renovate for the particular individual, a residential complex that is a single unit residential complex or a residential condominium unit for use as the primary place of residence of the particular individual or a relation of the particular individual,

(2) Section 256 of the Act is amended by adding the following after subsection (2):

Homes occupied
before substantial
completion

(2.01) Where an individual acquires an improvement in respect of a residential complex that the individual is constructing or substantially renovating and tax in respect of the improvement becomes payable by the individual more than two years after the day the complex is first occupied as described in subparagraph (2)(d)(i), that tax shall not be included under paragraph (2)(c) in determining the total tax paid by the individual.

1990, c. 45, s.
12(1)

(3) The portion of subsection 256(3) of the Act before paragraph (b) is replaced by the following:

Application for
rebate

(3) A rebate shall not be paid under subsection (2) in respect of a residential complex to an individual unless the individual files an application for the rebate within two years after the earliest of

(a) the day that is two years after the day the complex is first occupied as described in subparagraph (2)(d)(i),

(a.1) the day ownership is transferred as described in subparagraph (2)(d)(ii); and

(4) Subsections (1) to (3) apply to any rebate in respect of a residential complex for which an application is filed with the Minister of National Revenue on or after April 23, 1996 except where

(a) the residential complex was, at any time after the construction or substantial renovation thereof began and before that day, occupied as a place of residence or lodging;

(b) the construction or substantial renovation of the residential complex was substantially completed before that day; or

(c) the applicant, before that day, transferred ownership of the residential complex to a recipient of a supply by way of sale of the complex.

1993, c. 27, s.
113(1)

67. (1) Subsection 256.1(2) of the Act is replaced by the following:

Application for
rebate

(2) A rebate shall not be paid under subsection (1) to an owner or lessee of land in respect of a supply of the land made to a person who will be deemed under any of subsections 190(3) to (5) and section 191 to have made on a particular day another supply of the property that includes the land, unless the owner or lessee, as the case may be, files an application for the rebate on or before the day that is two years after the particular day.

(2) Subsection (1) applies to any rebate in respect of land that is deemed to have been supplied, after June 1996, under any of subsections 190(3) to (5) and section 191 of the Act.

1990, c. 45, s.
12(1)

68. (1) Subsection 257(2) of the Act is replaced by the following:

Application for
rebate

(2) A rebate shall not be paid under subsection (1) to a person in respect of the supply by way of sale of real property by the person unless the person files an application for the rebate within two years after the day the consideration for the supply became due or was paid without having become due.

Redemption of real
property

(3) Where

(a) for the purposes of satisfying in whole or in part a debt or obligation owing by a person (in this subsection referred to as the "debtor"), a creditor exercises a right under an Act of Parliament or the legislature of a province or an agreement relating to a debt security to cause the supply of real property, and

(b) under the Act or the agreement, the debtor has a right to redeem the property,

the following rules apply:

(c) the debtor is not entitled to claim a rebate under subsection (1) with respect to the property unless the time limit for redeeming the property has expired and the debtor has not redeemed the property, and

(d) where the debtor is entitled to claim the rebate, consideration for the supply is deemed, for the purposes of subsection (2), to have become due on the day on which the time limit for redeeming the property expires.

(2) Subsection 257(2) of the Act, as enacted by subsection (1), applies to any rebate in respect of a supply of real property for which all of the consideration becomes due after June 1996 or is paid after that month without having become due.

(3) Subsection 257(3) of the Act, as enacted by subsection (1), is deemed to have come into force on April 24, 1996.

69. (1) Paragraph (b) of the definition "claim period" in subsection 259(1) of the Act is replaced by the following:

(b) in any other case, the period that includes that time and consists of either

(i) the first and second fiscal quarters in a fiscal year of the person,
or

(ii) the third and fourth fiscal quarters in a fiscal year of the person;

1993, c. 27, s.
115(2)

(2) Subparagraph (a)(ii) of the definition "non-creditable tax charged" in subsection 259(1) of the Act is replaced by the following:

(ii) tax deemed under subsection 129(6), 129.1(4), 171(3) or 183(4), section 191 or subsection 200(2) or 211(2) or (4) to have been collected during the period by the person in respect of the property or service,

(ii.1) where the person is not a charity to which subsection 225.1(2) applies, tax deemed under subsection 183(5) or (6) to have been collected during the period by the person in respect of the property or service,

1993, c. 27, s.
115(2)

(3) Paragraph (b) of the definition "non-creditable tax charged" in subsection 259(1) of the Act is replaced by the following:

(b) the total of all amounts each of which is included in the total determined under paragraph (a) and

(i) is included in determining an input tax credit of the person in respect of the property or service for the period, or

(ii) for which it can reasonably be regarded the person has obtained or is entitled to obtain a rebate, refund or remission under any other section of this Act or under any other Act of Parliament;

(4) Paragraph (d) of the definition "selected public service body" in subsection 259(1) of the Act is replaced by the following:

(d) a public college that is established and operated otherwise than for profit, or

1993, c. 27, s.
115(3)

(5) Subsection 259(3) of the Act is replaced by the following:

Rebate for persons
other than
designated
municipalities

(3) Where a person (other than a listed financial institution, a registrant prescribed for the purposes of subsection 188(5) and a person designated to be a municipality for the purposes of this section) is, on the last day of a claim period of the person or of the person's fiscal year that includes that claim period, a selected public service body, charity or qualifying non-profit organization, the Minister shall, subject to subsections (4.1) and (5), pay a rebate to the person equal to the prescribed percentage of the non-creditable tax charged in respect of property or a service (other than a prescribed property or service) for the claim period.

1993, c. 27, s.
115(3)

(6) The portion of subsection 259(4) of the Act before the formula is replaced by the following:

Rebate for
designated
municipalities

(4) Where a person is, on the last day of a claim period of the person or of the person's fiscal year that includes that claim period, designated to be a municipality for the purposes of this section in respect of activities (in this subsection referred to as the "designated activities") specified in the designation, the Minister shall, subject to subsections (4.1) and (5), pay a rebate to the person in respect of property or a service (other than a prescribed property or service) equal to the amount determined by the formula

(7) Section 259 of the Act is amended by adding the following after subsection (4):

Apportionment of
rebate

(4.1) Where a person is

(a) a charity, a public institution or a qualifying non-profit organization,
and

(b) a selected public service body,

the rebate, if any, payable to the person under subsection (3) or (4) in respect of property or a service for a claim period is equal to the total of

(c) 50% of the non-creditable tax charged in respect of the property or service for the claim period, and

(d) the amount determined by the formula

$$A \times (B-50\%) \times C$$

where

A is the non-creditable tax charged,

B is the prescribed percentage applicable to a selected public service body described in whichever of paragraphs (a) to (e) of the definition of that expression in subsection (1) applies to the person, and

C is the percentage that would be determined for B in subsection (4) if that subsection applied to the person and if, in the case of a person who is not designated to be a municipality for the purposes of this section, the references to "designated activities" in paragraphs (a) to (c) of that description of B were read

(i) in the case of a person determined to be a municipality under paragraph (b) of the definition "municipality" in subsection 123(1), as references to activities engaged in by the person in the course of fulfilling the person's responsibilities as a local authority, and

(ii) in any other case, as references to activities engaged in by the person in the course of operating a recognized degree-granting institution, a college affiliated with, or research body of, such an institution, a public hospital, an elementary or secondary school or a post-secondary college or technical institute, as the case may be.

1993, c. 27, s.
115(3)

(8) Subsections 259(12) to (15) of the Act are replaced by the following:

Prescribed method

(12) A prescribed person may determine the rebates payable to the person under this section in accordance with prescribed rules.

(9) Subsection (1) applies for the purpose of determining claim periods of a person in fiscal years of the person beginning after 1996.

(10) Subsection (2) applies to tax deemed to have been collected by a registrant during reporting periods of the registrant beginning after 1996.

(11) Subsections (3), (4) and (8) apply for the purpose of determining rebates under section 259 of the Act, as amended by subsections (1) and (2) and (5) to (7), in respect of non-creditable tax charged for claim periods beginning after

(a) in the case of subsection (3), 1996; and

(b) in any other case, April 23, 1996.

(12) Subsections (5) to (7) apply,

(a) in the case of a person who is designated by the Minister of National Revenue to be a municipality for the purposes of section 259 of the Act, to claim periods ending after 1990, and

(b) in any other case, to any rebate the application for which is received by the Minister of National Revenue after April 23, 1996 or was deemed under paragraph 296(5)(a) of the Act to have been filed as a result of an assessment made after that day,

except that, in relation to claim periods ending before 1997, paragraph 259(4.1)(a) of the Act, as enacted by subsection (7), shall be read without reference to ", a public institution".

69.1 (1) The Act is amended by adding the following after section 259:

Definitions

259.1 (1) The definitions in this subsection apply in this section.

"claim period"
« période de
demande »

"claim period" has the meaning assigned by subsection 259(1).

"printed book"
« livre imprimé »

"printed book" does not include anything that is or the main component of which is

(a) a newspaper;

(b) a magazine or periodical acquired otherwise than by way of subscription;

(c) a magazine or periodical in which the printed space devoted to advertising is more than 5% of the total printed space;

(d) a brochure or pamphlet;

(e) a sales catalogue, a price list or advertising material;

(f) a warranty booklet or an owner's manual;

(g) a book designed primarily for writing on;

(h) a colouring book or a book designed primarily for drawing on or affixing thereto, or inserting therein, items such as clippings, pictures, coins, stamps or stickers;

(i) a cut-out book or a press-out book;

(j) a program relating to an event or performance;

(k) an agenda, calendar, syllabus or timetable;

(l) a directory, an assemblage of charts or an assemblage of street or road maps, but not including

(i) a guidebook, or

(ii) an atlas that consists in whole or in part of maps other than street or road maps;

(m) a rate book;

(n) an assemblage of blueprints, patterns or stencils;

(o) prescribed property; or

(p) an assemblage or collection of, or any item similar to, items included in any of paragraphs (a) to (o).

"qualifying non-profit organization"
« organisme à but non lucratif admissible »

"qualifying non-profit organization" has the meaning assigned by subsection 259(2).

"specified person"
« personne déterminée »

"specified person" means

(a) a municipality;

(b) a school authority;

(c) a university;

(d) an organization that operates a post-secondary college or post-secondary technical institute

(i) that receives from a government or municipality funds that are paid for the purpose of assisting the organization in the ongoing provision of educational services to the general public, and

(ii) the primary purpose of which is to provide programs of instruction in one or more fields of vocational, technical or general education;

(e) a charity or qualifying non-profit organization that operates a public lending library; or

(f) a prescribed charity, or a prescribed qualifying non-profit organization, the primary purpose of which is the promotion of literacy.

Rebate for printed books, etc.

(2) Where a person that is, on the last day of a claim period of the person or of the person's fiscal year that includes that claim period, a specified person acquires or imports, otherwise than for the purpose of supply by way of sale, property that is

(a) a printed book or an update of such a book,

(b) an audio recording of a printed book, or

(c) a bound or unbound printed version of scripture of any religion,

the Minister shall, subject to subsection (3), pay a rebate to the person equal to the amount of tax under subsection 165(1) or section 212 that became payable in the claim period by the person in respect of the acquisition or importation.

Application for rebate

(3) A rebate shall not be paid under subsection (2) to a specified person in respect of tax payable by the person unless the person files an application for the rebate within four years after the end of the claim period of the person in which the tax became payable.

Limitation

(4) Except where subsection (5) applies, a person shall not make more than one application for rebates under this section for any claim period of the person.

Application by branches or divisions

(5) Where a person that is entitled to a rebate under subsection (2) is engaged in one or more activities in separate branches or divisions and is required under subsection 259(10) to file separate applications for rebates under section 259 in respect of a branch or division, the person

(a) shall file separate applications under this section in respect of the branch or division; and

(b) shall not make more than one such application in respect of the branch or division for any claim period of the person.

(2) Subsection (1) applies to acquisitions and importations of property in respect of which tax becomes payable after October 23, 1996.

1990, c. 45, s.
12(1)

70. (1) Section 260 of the Act is replaced by the following:

Exports by a
charity or a
public institution

260. (1) Where a person that is a charity or a public institution is the recipient of a supply of property or a service, has paid tax in respect of the supply and has exported the property or service, subject to subsection (2), the Minister shall pay a rebate to the person equal to the amount of tax paid in respect of the supply.

Application for
rebate

(2) A rebate shall not be paid under subsection (1) to a person in respect of a supply unless the person files an application for the rebate within four years after the end of the fiscal year of the person in which tax in respect of the supply became payable.

(2) Subsection (1) applies to supplies in respect of which tax becomes payable after April 23, 1996 or is paid after that day without having become due except that, with respect to supplies made before 1997, subsection 260(1) of the Act, as enacted by subsection (1), shall be read without reference to "or a public institution".

71. (1) Subsection 261(3) of the Act is replaced by the following:

Application for
rebate

(3) A rebate in respect of an amount shall not be paid under subsection (1) to a person unless the person files an application for the rebate within two years after the day the amount was paid or remitted by the person.

(2) Subsection (1) applies

(a) to amounts that, after June 1996, are paid as or on account of, or are taken into account as, tax or other amount payable or remittable under Part IX of the Act; and

(b) to amounts that, on or before the last day of that month, were paid as or on account of, or were taken into account as, tax or other amount payable or remittable under that Part, other than amounts that are claimed in an application under section 261 of the Act filed on or before June 30, 1998.

1990, c. 45, s.
12(1)

72. (1) Paragraph 265(1)(a) of the Act is replaced by the following:

(a) the trustee in bankruptcy is deemed to supply a service to the bankrupt of acting as trustee in bankruptcy and any amount to which the trustee is entitled for acting in that capacity is deemed to be consideration payable for that supply, but in every other respect, the trustee in bankruptcy is deemed

to be the agent of the bankrupt and any supply made or received and any act performed by the trustee in the administration of the estate of the bankrupt or in the carrying on of any business of the bankrupt is deemed to have been made, received or performed, as the case may be, by the trustee as agent of the bankrupt;

(2) Subsection (1) is deemed to have come into force on December 17, 1990.

1990, c. 45, s.
12(1)

73. (1) Sections 267 to 269 of the Act are replaced by the following:

Estate of a
deceased
individual

267. Subject to sections 267.1, 269 and 270, where an individual dies, this Part applies as though the estate of the individual were the individual and the individual had not died, except that

(a) the reporting period of the individual during which the individual died ends on the day the individual died; and

(b) a reporting period of the estate begins on the day after the individual died and ends on the day the reporting period of the individual would have ended if the individual had not died.

Definitions

267.1 (1) The definitions in this subsection apply in this section and in sections 268 to 270.

"trust"
« *fiducie* »

"trust" includes the estate of a deceased individual.

"trustee"
« *fiduciaire* »

"trustee" includes the personal representative of a deceased individual, but does not include a receiver (within the meaning assigned by subsection 266(1)).

Trustee's
liability

(2) Subject to subsection (3), each trustee of a trust is liable to satisfy every obligation imposed on the trust under this Part, whether the obligation was imposed during or before the period during which the trustee acts as trustee of the trust, but the satisfaction of an obligation of a trust by one of the trustees of the trust discharges the liability of all other trustees of the trust to satisfy that obligation.