

Notice of Ways and Means Motion to amend the Income Tax Act, the Excise Act, the Excise Tax Act, the Office of the Superintendent of Financial Institutions Act, the Old Age Security Act and the Canada Shipping Act.

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That it is expedient to amend the Income Tax Act, the Excise Act, the Excise Tax Act, the Office of the Superintendent of Financial Institutions Act, the Old Age Security Act and the Canada Shipping Act as follows:

SHORT TITLE

Short title

1. This Act may be cited as the *Income Tax Budget Amendment Act*.

PART I

R.S., c. 1 (5th  
Supp.); 1994,  
cc. 7, 8, 13,  
21, 28, 29, 38,  
41; 1995, cc.  
1, 3, 11, 18,  
21, 38, 46

INCOME TAX ACT

2. (1) Subsection 4(4) of the *Income Tax Act* is repealed.
- (2) Subsection (1) applies to taxation years that end after July 19, 1995.
3. (1) Subsection 11(1) of the Act is replaced by the following:

Proprietor of  
business

11. (1) Subject to sections 34.1 and 34.2, where an individual is a proprietor of a business, the individual's income from the business for a taxation year is deemed to be the individual's income from the business for the fiscal periods of the business that end in the year.

- (2) Subsection (1) applies to the 1995 and subsequent taxation years.

4. (1) Subparagraph 12(1)(x)(vi) of the Act is replaced by the

**following:**

(vi) except as provided by subsection 127(11.1), (11.5) or (11.6), does not reduce, for the purpose of an assessment made or that may be made under this Act, the cost or capital cost of the property or the amount of the outlay or expense, as the case may be,

**(2) Subsection (1) applies to taxation years that begin after 1995.**

**5. (1) Subsection 18(9) of the Act is amended by striking out the word "and" at the end of paragraph (c) and by replacing paragraph (d) with the following:**

(d) for the purpose of paragraph (a), an outlay or expense of a taxpayer is deemed not to include any payment referred to in subparagraph 37(1)(a)(ii) or (iii) that

(i) is made by the taxpayer to a person or partnership with which the taxpayer deals at arm's length, and

(ii) is not an expenditure described in subparagraph 37(1)(a)(i); and

(e) for the purposes of section 37 and the definition "qualified expenditure" in subsection 127(9), the portion of an expenditure that is made or incurred by a taxpayer in a taxation year and that would, but for paragraph (a), have been deductible under section 37 in computing the taxpayer's income for the year, is deemed

(i) not to be made or incurred by the taxpayer in the year, and

(ii) to be made or incurred by the taxpayer in the subsequent taxation year to which the expenditure can reasonably be considered to relate.

**(2) Paragraph 18(12)(b) of the Act is replaced by the following:**

(b) where the conditions set out in subparagraph (a)(i) or (ii) are met, the amount for the work space that is deductible in computing the individual's income for the year from the business shall not exceed the individual's income for the year from the business, computed without reference to the amount and sections 34.1 and 34.2; and

**(3) Paragraph 18(9)(d) of the Act, as enacted by subsection (1), applies to payments made after 1995.**

(4) Paragraph 18(9)(e) of the Act, as enacted by subsection (1), applies to expenditures made or incurred at any time.

(5) Subsection (2) applies to the 1995 and subsequent taxation years.

6. (1) Section 24.1 of the Act is repealed.

(2) Subsection (1) applies to appointments made after 1995.

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

Fiscal period  
of business  
disposed of by  
individual

25. (1) Where an individual was the proprietor of a business and disposed of it during a fiscal period of the business, the fiscal period may, if the individual so elects and subsection 249.1(4) does not apply in respect of the business, be deemed to have ended at the time it would have ended if the individual had not disposed of the business during the fiscal period.

(2) Subsection (1) applies to fiscal periods that begin after 1994.

8. (1) The Act is amended by adding the following after section 34:

Additional  
business income

34.1 (1) Where

(a) an individual (other than a testamentary trust) carries on a business in a taxation year,

(b) a fiscal period of the business begins in the year and ends after the end of the year (in this subsection referred to as the "particular period"), and

(c) the individual has elected under subsection 249.1(4) in respect of the business and the election has not been revoked,

there shall be included in computing the individual's income for the year from the business, the amount determined by the formula

$$(A - B) \times \frac{C}{D}$$

D

where

A is the total of the individual's income from the business for the fiscal periods of the business that end in the year,

B is the lesser of

(i) the total of all amounts each of which is an amount included in the value of A in respect of the business and that is deemed to be a taxable capital gain for the purpose of section 110.6, and

(ii) the total of all amounts deducted under section 110.6 in computing the individual's taxable income for the year,

C is the number of days on which the individual carries on the business that are both in the year and in the particular period, and

D is the number of days on which the individual carries on the business that are in fiscal periods of the business that end in the year.

Additional  
income election

(2) Where

(a) an individual (other than a testamentary trust) begins carrying on a business in a taxation year and not earlier than the beginning of the first fiscal period of the business that begins in the year and ends after the end of the year (in this subsection referred to as the "particular period"), and

(b) the individual has elected under subsection 249.1(4) in respect of the business and the election has not been revoked,

there shall be included in computing the individual's income for the year from the business the lesser of

(c) the amount designated in the individual's return of income for the year, and

(d) the amount determined by the formula

$$(A - B) \times \frac{C}{D}$$

D

where

A is the individual's income from the business for the particular period,

B is the lesser of

(i) the total of all amounts each of which is an amount included in the value of A in respect of the business and that is deemed to be a taxable capital gain for the purpose of section 110.6, and

(ii) the total of all amounts deducted under section 110.6 in computing the individual's taxable income for the taxation year that includes the end of the particular period,

C is the number of days on which the individual carries on the business that are both in the year and in the particular period, and

D is the number of days on which the individual carries on the business that are in the particular period.

#### Deduction

(3) There shall be deducted in computing an individual's income for a taxation year from a business the amount, if any, included under subsection (1) or (2) in computing the individual's income for the preceding taxation year from the business.

#### Deemed December 31, 1995 income

(4) For the purpose of section 34.2, where

(a) at the end of 1994 an individual carried on a particular business no fiscal period of which ended at that time, and

(b) an amount is included under subsection (1) in computing the individual's income for the 1995 taxation year in respect of

(i) the particular business, or

(ii) another business that would, if subsection 34.2(3) applied for the purpose of this subparagraph, be included in the particular business,

subject to subsection (7), the December 31, 1995 income of the individual in respect of the particular business or the other business, as the case may be, is deemed to be the amount that would have been so included if the descriptions of A and B in subsection (1) were read as follows:

"A is the total of the individual's income from the business for the fiscal periods of the business that end in the year (determined as if paragraphs 34.2(2)(a) to (d) applied in computing that income),

B is the lesser of

(i) the total of all amounts each of which is an amount included in the value of A in respect of the business and that is deemed to be a taxable capital gain for the purpose of section 110.6, and

(ii) the total of the maximum amounts deductible under section 110.6 in computing the individual's taxable income for the year,".

Deemed December  
31, 1995 income

(5) For the purpose of section 34.2, where

(a) at the end of 1994 an individual carried on a particular business no fiscal period of which ended at that time, and

(b) an amount is included under subsection (2) in computing the individual's income for the 1995 taxation year in respect of another business that would, if subsection 34.2(3) applied for the purpose of this paragraph, be included in the particular business,

the December 31, 1995 income of the individual in respect of the other business is deemed to be the amount that would have been so included if the descriptions of A and B in paragraph (2)(d) were read as follows:

"A is the individual's income from the business for the particular period (determined as if paragraphs 34.2(2)(a) to (d) applied in computing that income),

B is the lesser of

(i) the total of all amounts each of which is an amount included in the value of A in respect of the business and that is deemed to be a taxable capital gain for the purpose of section 110.6, and

(ii) the total of the maximum amounts deductible under section 110.6 in computing the individual's taxable income for the taxation year that includes the end of the particular period,".

Deemed December  
31, 1995 income

(6) For the purpose of section 34.2, where

(a) at the end of 1995 an individual carries on a business as a member of a partnership no fiscal period of which ended at the end of 1994,

(b) the business was carried on by a professional corporation as a member of the partnership at the end of 1994,

(c) the professional corporation transferred its interest in the partnership to the individual before the end of 1995,

(d) the individual is a practising member of the professional body under the authority of which the professional corporation practised the profession,

(e) the individual was a specified shareholder of the professional corporation immediately before the transfer,

(f) the professional corporation does not have a share of the income or loss of the partnership for the first fiscal period of the partnership that ends after the end of 1995, and

(g) an amount is included under subsection (2) in computing the individual's income for the 1995 taxation year in respect of the business,

the December 31, 1995 income of the individual in respect of the business is deemed to be the amount that would have been so included if the descriptions of A and B in paragraph (2)(d) were read as follows:

"A is the individual's income from the business for the particular period (determined as if paragraphs 34.2(2)(a) to (d) applied in computing that income),

B is the lesser of

(i) the total of all amounts each of which is an amount included in the value of A in respect of the business and that is deemed to be a taxable capital gain for the purpose of section 110.6, and

(ii) the total of the maximum amounts deductible under section 110.6 in computing the individual's taxable income for the taxation year that includes the end of the particular period,"



and, for the purpose of computing the values of C and D in paragraph (2)(d), the individual is deemed to carry on the business on the days on which the corporation carried on the business.

Maximum  
December 31,  
1995 income

(7) Where an amount was included under subsection (1) in computing an individual's income for the 1995 taxation year from a business and

(a) the individual's December 31, 1995 income otherwise determined under subsection (4) in respect of the business for the purpose of section 34.2

exceeds

(b) the amount that would be described under paragraph (a) if the descriptions of A, B and D in subsection (1) were read as follows:

"A is the individual's income from the business for the particular period (determined as if paragraphs 34.2(2)(a) to (d) applied in computing that income),

B is the lesser of

(i) the total of all amounts each of which is an amount included in the value of A in respect of the business and that is deemed to be a taxable capital gain for the purpose of section 110.6, and

(ii) the total of the maximum amounts deductible under section 110.6 in computing the individual's taxable income for the taxation year that includes the end of the particular period,

D is the number of days on which the individual carries on the business that are in the particular period.",

for the purpose of applying subsection 34.2(4) to the 1996 and subsequent taxation years, the December 31, 1995 income of the individual in respect of the business is deemed to be the amount determined under paragraph (b).

No additional  
income  
inclusion

(8) Subsections (1) and (2) do not apply in computing an individual's income for a taxation year from a business where

(a) the individual dies or otherwise ceases to carry on the business in the year; or

(b) the individual becomes a bankrupt in the calendar year in which the taxation year ends.

#### Definitions

**34.2** (1) The definitions in this subsection apply in this section.

"December 31,  
1995 income"  
« *revenu au 31*  
*décembre*  
1995 »

"December 31, 1995 income" in respect of a business carried on by a taxpayer means the amount determined by the formula

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

where

A is the total of all amounts each of which is the taxpayer's income from the business for a qualifying fiscal period,

B is the total of all amounts each of which is the taxpayer's loss from the business for a qualifying fiscal period,

C is the lesser of

(a) the total of all amounts each of which is an amount included in computing the taxpayer's income or loss from the business for a qualifying fiscal period and that is deemed to be a taxable capital gain for the purpose of section 110.6, and

(b) the total of the maximum amounts deductible under section 110.6 in computing the taxpayer's taxable income for the taxation year in which the qualifying fiscal periods end,

D is

(a) where the taxpayer is a professional corporation, the total salary or wages deductible in computing the value of A

or B in respect of the business that is payable by the corporation to an individual

(i) who is a practising member of the professional body under the authority of which the corporation practised the profession, and

(ii) who is a specified shareholder of the corporation, and

(b) in any other case, nil, and

E is

(a) where the taxpayer is a professional corporation a taxation year of which ended at the end of 1995 because of the application of paragraph 249.1(1)(b), the amount determined by the formula

$$\frac{F}{-G}$$

F

where

F is the number of days in all qualifying fiscal periods of the business, and

G is the number of days in the year, and

(b) in any other case, 1.

"qualifying  
fiscal period"  
« *exercice  
admissible* »

"qualifying fiscal period" of a business of a taxpayer means

(a) where at the end of 1994 the taxpayer carried on the business and no fiscal period of the business ended at that time, a fiscal period of the business that

(i) begins after the beginning of the taxpayer's taxation year that includes the end of 1995, and

(ii) ends

(A) at the end of 1995 because of the application of paragraph 249.1(1)(b) or because of the application of section 25 and paragraph 249.1(1)(b), or

(B) immediately before the end of 1995 because of the application of subsection 99(2) and paragraph 249.1(1)(b),

(b) a fiscal period of the business that ends at the end of 1995 because of the application of paragraph 249.1(1)(b) where

(i) the taxpayer is an individual who carries on the business as a member of a partnership at the end of 1995,

(ii) the individual acquired the individual's interest in the partnership in 1995 from a professional corporation,

(iii) the professional corporation carried on the business at the end of 1994 as a member of the partnership and does not have a share of the income or loss of the partnership for the fiscal period,

(iv) the individual is a practising member of the professional body under the authority of which the professional corporation practised the profession, and

(v) the individual was a specified shareholder of the professional corporation immediately before acquiring the interest, and

(c) where

(i) the taxpayer is a professional corporation that has a taxation year that ends at the end of 1995 because of the application of paragraph 249.1(1)(b), and

(ii) at the end of 1994 the business was carried on by the professional corporation as a member of a partnership, or by an individual

(A) who transferred an interest in the partnership to the professional corporation before the end of 1995,

(B) who is a practising member of the professional body under the authority of which the professional corporation practises the profession,

(C) who was a specified shareholder of the professional corporation immediately after the transfer, and

(D) who does not have a share of the income or loss of the partnership for the first fiscal period of the partnership that ends in 1995,

a fiscal period of the business that ends in that taxation

year.

"specified  
percentage"  
« *pourcentage  
déterminé* »

"specified percentage" of a taxpayer for a particular taxation year  
in respect of a business means

(a) where the first taxation year in which a qualifying fiscal  
period of the business ends is 1995, or subsection 34.1(4), (5)  
or (6) applies in respect of the business, and the particular  
year ends in

- (i) 1995, 95%,
- (ii) 1996, 85%,
- (iii) 1997, 75%,
- (iv) 1998, 65%,
- (v) 1999, 55%,
- (vi) 2000, 45%,
- (vii) 2001, 35%,
- (viii) 2002, 25%,
- (ix) 2003, 15%, and
- (x) any other year, 0%, and

(b) where the first taxation year in which a qualifying fiscal  
period of a business of the taxpayer ends is 1996 and the  
particular year ends in

- (i) 1996, 95%,
- (ii) 1997, 85%,
- (iii) 1998, 75%,
- (iv) 1999, 65%,
- (v) 2000, 55%,
- (vi) 2001, 45%,

- (vii) 2002, 35%,
- (viii) 2003, 25%,
- (ix) 2004, 15%, and
- (x) any other year, 0%.

Computation of  
December 31,  
1995 income

(2) For the purpose of the definition "December 31, 1995 income" in subsection (1), a taxpayer's income or loss from a business for a qualifying fiscal period shall be computed as if

- (a) this Act were read without reference to paragraph 28(1)(b);
- (b) the taxpayer had made the election referred to in paragraph 34(a) in respect of the business for the period;
- (c) the maximum amount deductible in respect of any reserve, allowance or other amount were deducted; and
- (d) the taxpayer had not received any taxable dividend.

Business  
defined

(3) For the purposes of the definition "qualifying fiscal period" in subsection (1) and subparagraphs (6)(b)(i) and (c)(i), a reference to a particular business of a taxpayer includes another business substituted therefor, or for which the particular business was substituted, by the taxpayer where

- (a) all or substantially all of the gross revenue of the particular business is derived from the sale, leasing, rental or development of properties or the rendering of services; and
- (b) all or substantially all of the gross revenue of the other business is derived from the sale, leasing, rental or development, as the case may be, of similar properties or the rendering of similar services.

Reserve

(4) Subject to subsection (6), where a taxpayer carries on a business in a particular taxation year, there may be deducted in computing the taxpayer's income for the year from the business, as a reserve in respect of December 31, 1995 income, such amount as

the taxpayer claims not exceeding the least of

(a) the specified percentage for the particular year of the taxpayer's December 31, 1995 income in respect of the business;

(b) where an amount was deductible under this subsection in computing the taxpayer's income for a preceding taxation year from the business, the amount included under subsection (5) in computing the taxpayer's income for the particular year from the business; and

(c) the taxpayer's income for the particular year computed before deducting any amount under this subsection in respect of the business or under any of paragraph 60(w), sections 61.2 to 61.4 and subsection 80(17).

Reserve  
included in  
income

(5) There shall be included in computing a taxpayer's income for a taxation year from a business the amount deducted under subsection (4) in computing the taxpayer's income therefrom for the preceding taxation year.

No reserve

(6) No deduction shall be made under subsection (4) in computing a taxpayer's income for a taxation year from a business where

(a) at the end of the year or at any time in the following taxation year,

(i) the taxpayer's income from the business is exempt from tax under this Part, or

(ii) the taxpayer is non-resident and does not carry on the business through a permanent establishment (as defined by regulation) in Canada;

(b) the taxpayer is a corporation and the year ends immediately before another taxation year

(i) at the beginning of which the business is not carried on principally by the corporation nor by members of a partnership of which the corporation is a member,

(ii) in which the corporation becomes a bankrupt, or

(iii) in which the corporation is dissolved or wound up (other

- than in circumstances to which subsection 88(1) applies); or
- (c) the taxpayer is an individual, and
- (i) at the beginning of the year, the business is not carried on principally by the individual nor by members of a partnership of which the individual is a member,
  - (ii) the individual dies or becomes a bankrupt in the calendar year in which the taxation year ends, or
  - (iii) the individual is a trust that ceases to exist in the year.

Anti-avoidance  
rule

(7) Where it is reasonable to conclude that one of the main reasons a person carries on a business or is a member of a partnership is to avoid the application of subparagraph (6)(b)(i) or (c)(i), the person is deemed not to carry on the business, and not to be a member of the partnership, for the purposes of those subparagraphs.

**(2) Subsection (1) applies after 1994.**

**9. (1) The portion of subsection 37(1) of the Act before paragraph (a) is replaced by the following:**

Scientific  
research and  
experimental  
development

**37. (1)** Where a taxpayer carried on a business in Canada in a taxation year, there may be deducted in computing the taxpayer's income from the business for the year such amount as the taxpayer claims not exceeding the amount, if any, by which the total of

**(2) Paragraph 37(1)(a) of the Act is amended by adding the following after subparagraph (i):**

(i.1) by payments to a corporation resident in Canada to be used for scientific research and experimental development carried on in Canada that is related to a business of the taxpayer, but only where the taxpayer is entitled to exploit the results of that scientific research and experimental development,

**(3) The portion of subparagraph 37(1)(a)(ii) of the French**



**version of the Act before clause (A) is replaced by the following:**

(ii) soit sous forme de paiement – devant servir à des activités de recherche scientifique et de développement expérimental exercées au Canada en rapport avec une entreprise du contribuable, mais seulement dans le cas où le contribuable est en droit d'exploiter les résultats de ces activités – à l'une des entités suivantes :

**(4) Subparagraph 37(1)(a)(ii) of the Act is amended by adding the word "or" at the end of clause (C) and by repealing clause (D).**

**(5) The portion of subparagraph 37(1)(a)(ii) of the English version of the Act after clause (E) is replaced by the following:**

to be used for scientific research and experimental development carried on in Canada that is related to a business of the taxpayer, but only where the taxpayer is entitled to exploit the results of that scientific research and experimental development, or

**(6) Subparagraph 37(1)(a)(iii) of the English version of the Act is amended by striking out the word "and" at the end of that subparagraph.**

**(7) Paragraphs 37(1)(d) and (e) of the Act are replaced by the following:**

(d) the total of all amounts each of which is the amount of any government assistance or non-government assistance (within the meanings assigned to those expressions by subsection 127(9)) in respect of an expenditure described in paragraph (a) or (b) that, at the taxpayer's filing-due date for the year, the taxpayer has received, is entitled to receive or can reasonably be expected to receive,

(e) that part of the total of all amounts each of which is an amount deducted under subsection 127(5) in computing the tax payable under this Part by the taxpayer for a preceding taxation year where the amount can reasonably be attributed to

(i) a prescribed proxy amount for a preceding taxation year,

(ii) an expenditure of a current nature incurred in a preceding taxation year that was a qualified expenditure incurred in that preceding year in respect of scientific research and experimental development for the purposes of section 127, or

(iii) an amount included because of paragraph 127(13)(e) in the taxpayer's SR&ED qualified expenditure pool at the end of a

preceding taxation year within the meaning assigned by subsection 127(9),

**(8) The definition "scientific research and experimental development" in subsection 37(7) of the Act is repealed.**

**(9) Subsection 37(10) of the Act is replaced by the following:**

Time for  
election

(10) Any election made under clause (8)(a)(ii)(B) for a taxation year by a taxpayer shall be filed by the taxpayer on the day on which the taxpayer first files a prescribed form referred to in subsection (11) for the year.

**(10) Subsection 37(11) of the Act is replaced by the following:**

Filing  
requirement

(11) Subject to subsection (12), no amount in respect of an expenditure that would be incurred by a taxpayer in a taxation year that begins after 1995 if this Act were read without reference to subsection 78(4) may be deducted under subsection (1) unless the taxpayer files with the Minister a prescribed form containing prescribed information in respect of the expenditure on or before the day that is 12 months after the taxpayer's filing-due date for the year.

Reclassified  
expenditures

(12) A taxpayer is not required to file the prescribed form referred to in subsection (11) in respect of an expenditure that would be incurred in a taxation year by the taxpayer if this Act were read without reference to subsection 78(4) where the expenditure is reclassified by the Minister on an assessment of the taxpayer's tax payable under this Part for the year, or on a determination that no tax under this Part is payable by the taxpayer for the year, as an expenditure in respect of scientific research and experimental development.

Non-arm's  
length contract  
- linked work

(13) For the purposes of this section and sections 127 and 127.1, where

(a) work is performed by a taxpayer for a person or partnership at a time when the person or partnership does not deal at arm's length with the taxpayer, and

(b) the work would be scientific research and experimental development described in paragraph 2900(1)(d) of the *Income Tax Regulations* if it were performed by the person or partnership,

the work is deemed to be scientific research and experimental development.

**(11) Subsections (1), (7), (9) and (10) apply to taxation years that begin after 1995.**

**(12) Subsections (2) to (5) apply to payments made after 1995.**

**(13) Subsection (8) applies to work performed after February 27, 1995 except that, for the purposes of paragraphs 149(1)(j) and (8)(b) of the Act, subsection (8) does not apply to work performed pursuant to an agreement in writing entered into before February 28, 1995.**

**10. (1) Paragraph 45(3)(b) of the Act is replaced by the following:**

(b) the taxpayer's filing-due date for the taxation year in which the property is actually disposed of by the taxpayer.

**(2) Subsection (1) applies to the 1995 and subsequent taxation years.**

**11. (1) Subsection 48.1(2) of the Act is replaced by the following:**

Time for  
election

(2) An election made under subsection (1) by an individual for a taxation year shall be made on or before the individual's filing-due date for the year.

**(2) Subsection (1) applies to the 1995 and subsequent taxation years.**

**12. (1) Paragraph 53(2)(c) of the Act is amended by adding the following after subparagraph (i.3)**

(i.4) if the taxpayer is a member of the partnership who was a specified member of the partnership at all times since becoming a member of the partnership or the taxpayer is at that time a

limited partner of the partnership for the purposes of subsection 40(3.1), the amount

(A) deducted under subsection 34.2(4) in computing the taxpayer's income for the taxation year in respect of the interest, where that time is in the taxpayer's first taxation year in which a qualifying fiscal period (within the meaning assigned by subsection 34.2(1)) of the business carried on by the taxpayer as a member of the partnership ends and is after the end of that period, and

(B) where that time is in any other taxation year, deducted under subsection 34.2(4) in respect of the interest in computing the taxpayer's income for the taxation year preceding that other year

unless

(C) that time is immediately before a disposition of the interest and no amount is deductible under subsection 34.2(4) in respect of the interest in computing the taxpayer's income for the taxation year following the taxation year that includes that time,

(D) the taxpayer has December 31, 1995 income in respect of the business because of section 34.1, or

(E) the taxpayer's partnership interest was held by the taxpayer on February 22, 1994 and is an excluded interest (within the meaning assigned by subsection 40(3.15)) at the end of the fiscal period of the partnership that includes that time,

**(2) Subsection (1) applies after 1994.**

**13. (1) Clause 60(j.1)(ii)(A) of the Act is replaced by the following:**

(A) \$2,000 multiplied by the number of years before 1996 during which the employee or former employee in respect of whom the payment was made (in this paragraph referred to as the "retiree") was employed by the employer or a person related to the employer, and

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

**14. (1) Paragraph 70(7)(a) of the Act is replaced by the following:**

(a) for the purpose of determining the day on or before which a return (in this subsection referred to as the "taxpayer's return") of the taxpayer's income for the taxation year in which the taxpayer died is required to be filed by the taxpayer's legal representatives, subsection 150(1) shall be read without reference to paragraph 150(1)(b) and as if paragraph 150(1)(d) read as follows:

"(d) in the case of any other person, by the person's legal representative within 18 months after the person's death; or"; and

**(2) Subsection (1) applies after 1994.**

**15. (1) Paragraph 87(2)(j) of the Act is replaced by the following:**

Special  
reserves

(j) for the purposes of paragraphs 20(1)(m), (m.1) and (m.2), subsection 20(24) and section 34.2, the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

**(2) Subsection 87(2) of the Act is amended by adding the following after paragraph (j.93):**

Canadian film  
or video  
production tax  
credit

(j.94) for the purpose of section 125.4, the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

**(3) Paragraph 87(2)(aa) of the Act is replaced by the following:**

Refundable  
dividend tax on  
hand

(aa) where the new corporation was a private corporation immediately after the amalgamation, for the purpose of computing the refundable dividend tax on hand (within the meaning assigned by subsection 129(3)) of the new corporation at the end of its first taxation year there shall be added to the total determined under subsection 129(3) in respect of the new corporation for the

year the total of all amounts each of which is the amount, if any, by which the refundable dividend tax on hand of a predecessor corporation at the end of its last taxation year exceeds its dividend refund (within the meaning assigned by subsection 129(1)) for its last taxation year, except that no amount shall be added under this paragraph in respect of a predecessor corporation

(i) that was not a private corporation at the end of its last taxation year, or

(ii) where subsection 129(1.2) would have applied to deem a dividend paid by the predecessor corporation immediately before the amalgamation not to be a taxable dividend for the purpose of subsection 129(1);

**(4) Subsections (1) and (2) apply to amalgamations that occur and windings-up that begin after 1994.**

**(5) Subsection (3) applies to amalgamations that occur and windings-up that begin after June 1995.**

**16. (1) The portion of paragraph 88(1)(e.2) of the Act before subparagraph (i) is replaced by the following:**

(e.2) paragraphs 87(2)(c), (d.1), (e.1), (e.3), (g) to (l), (1.3) to (u), (x), (y.1), (z.1), (z.2), (aa), (cc), (ll), (nn), (pp), (rr), (tt) and (uu), subsection 87(6) and, subject to section 78, subsection 87(7) apply to the winding-up as if the references therein to

**(2) Paragraph 88(1)(e.5) of the Act is repealed.**

**(3) Subsections (1) and (2) apply to windings-up that begin after June 1995.**

**17. (1) Paragraph 96(1)(d) of the Act is replaced by the following:**

(d) each income or loss of the partnership for a taxation year were computed as if this Act were read without reference to paragraph 20(1)(v.1), section 34.1 and subsections 66.1(1), 66.2(1) and 66.4(1) and as if no deduction were permitted under any of section 29 of the *Income Tax Application Rules*, subsections 34.2(4) and 65(1) and sections 66, 66.1, 66.2 and 66.4;

**(2) The portion of subsection 96(1.1) of the Act before paragraph (a) is replaced by the following:**

Allocation of  
share of income  
to retiring  
partner

(1.1) For the purposes of subsection (1) and sections 34.1, 34.2, 101, 103 and 249.1,

**(3) Subsection 96(1.6) of the Act is replaced by the following:**

Members of  
partnership  
deemed to be  
carrying on  
business in  
Canada

(1.6) Where a partnership carries on a business in Canada at any time, each taxpayer who is deemed by paragraph (1.1)(a) to be a member of the partnership at that time is deemed to carry on the business in Canada at that time for the purposes of subsection 2(3), section 34.1 and (subject to subsection 34.2(7)) section 34.2.

**(4) Subparagraph 96(2.2)(d)(ii) of the Act is repealed.**

**(5) The portion of subsection 96(3) of the Act before paragraph (a) is replaced by the following:**

Agreement or  
election of  
partnership

(3) Where a taxpayer who was a member of a partnership in a fiscal period has, for any purpose relevant to the computation of the taxpayer's income from the partnership for the fiscal period, made or executed an agreement, a designation or an election under or in respect of the application of any of subsections 13(4), (15) and (16), 14(6), 20(9) and 21(1) to (4), section 22, subsection 29(1), section 34, clause 37(8)(a)(ii)(B), subsections 44(1) and (6), 50(1) and 80(5), (9), (10) and (11), section 80.04 and subsections 97(2) and 249.1(4) and (6) that, but for this subsection, would be a valid agreement, designation or election,

**(6) Subsections (1) to (3) and (5) apply after 1994.**

**(7) Subsection (4) applies to revenue guarantees granted after 1995.**

**17.1 (1) Subsection 99(2) of the Act is replaced by the**

**following:**

Fiscal period  
of terminated  
partnership for  
individual  
member

(2) Where an individual was a member of a partnership that, at any time in a fiscal period of a partnership, has or would have, but for subsection 98(1), ceased to exist, for the purposes of computing the individual's income for a taxation year the partnership's fiscal period may, if the individual so elects and subsection 249.1(4) does not apply in respect of the partnership, be deemed to have ended immediately before the time when the fiscal period of the partnership would have ended if the partnership had not so ceased to exist.

**(2) Subsection (1) applies to fiscal periods that begin after 1994.**

**18. (1) Paragraph 104(4)(a.1) of the Act is replaced by the following:**

(a.1) where the trust is a pre-1972 spousal trust on January 1, 1993 and the spouse referred to in the definition "pre-1972 spousal trust" in subsection 108(1) in respect of the trust was

(i) in the case of a trust created by the will of a taxpayer, alive on January 1, 1976, and

(ii) in the case of a trust created by a taxpayer during the taxpayer's lifetime, alive on May 26, 1976,

the day that is the later of

(iii) the day on which that spouse dies, and

(iv) January 1, 1993;

**(2) Subparagraph 104(4)(b)(iii) of the Act is replaced by the following:**

(iii) where applicable, the day determined under paragraph (a) or (a.1) as those paragraphs applied from time to time after 1971; and

**(3) The portion of subsection 104(5.3) of the Act before paragraph (b) is replaced by the following:**



## Election

(5.3) Where a trust files an election under this subsection in prescribed form with the Minister within 6 months after the end of a taxation year of the trust that includes a day before 1999 (in this subsection referred to as the "disposition day") that would, but for this subsection, be determined in respect of the trust under paragraph (4)(a.1) in the case of a trust described in that paragraph, or under paragraph (4)(b) in any other case, and there is an exempt beneficiary under the trust on the disposition day,

(a) for the purposes of subsections (4) to (5.2), paragraph (6)(b) and subsection 159(6.1), the day determined under paragraph (4)(a.1) or (b), as the case may be, in respect of the trust is deemed to be the earlier of

(i) January 1, 1999, and

(ii) the first day of the trust's first taxation year that begins after the first day after the disposition day throughout which there is no exempt beneficiary under the trust;

**(4) Subsection 104(5.3) of the Act is amended by adding the following after paragraph (b):**

(b.1) where the trust filed the form before March 1995, paragraph (b) does not apply to distributions made by the trust after February 1995;

**(5) Section 104 of the Act is amended by adding the following after subsection (5.3):**

## Revocation of election

(5.31) Where a trust that has filed an election under subsection (5.3) before July 1995 applies before 1997 to the Minister in writing for permission to revoke the election and the Minister grants permission to revoke the election,

(a) the election is deemed, otherwise than for the purposes of this subsection, never to have been made;

(b) the trust is not liable to any penalty under this Act to the extent that the liability would, but for this paragraph, have increased because of the revocation of the election; and

(c) notwithstanding subsections 152(4) to (5), such assessments of tax, interest and penalties under this Act shall be made as are necessary to take into account the consequences of the

revocation of the election.

**(6) Paragraph 104(6)(b) of the Act is amended by adding the word "and" at the end of subparagraph (ii) and by adding the following after subparagraph (ii):**

(iii) where the trust is described in paragraph (4)(a) and the spouse referred to in paragraph (4)(a) in respect of the trust died on a day in the year, the part of the amount that, but for

(A) this subsection, and

(B) subsections (12) and 107(4)

would be the part of its income for the year that became payable in the year to a beneficiary (other than the spouse) and as is attributable to one or more dispositions by the trust before the end of that day of capital properties (other than excluded properties), land described in an inventory of the trust, Canadian resource properties or foreign resource properties.

**(7) Subsection 104(12) of the Act is replaced by the following:**

Deduction of  
amounts  
included in  
preferred  
beneficiaries'  
incomes

(12) There may be deducted in computing the income of a trust for a taxation year the lesser of

(a) the total of all amounts designated under subsection (14) by the trust in respect of the year, and

(b) the accumulating income of the trust for the year.

**(8) Subsection 104(14) of the Act is replaced by the following:**

Election by  
trust and  
preferred  
beneficiary

(14) Where a trust and a preferred beneficiary under the trust for a particular taxation year of the trust jointly so elect in respect of the particular year in prescribed manner, such part of

the accumulating income of the trust for the particular year as is designated in the election, not exceeding the allocable amount for the preferred beneficiary in respect of the trust for the particular year, shall be included in computing the income of the preferred beneficiary for the beneficiary's taxation year in which the particular year ended and shall not be included in computing the income of any beneficiary of the trust for a subsequent taxation year.

**(9) Subsection 104(15) of the Act is replaced by the following:**

Allocable  
amount for  
preferred  
beneficiary

(15) For the purpose of subsection (14), the allocable amount for a preferred beneficiary under a trust in respect of the trust for a taxation year is

(a) where the trust is a trust described in the definition "pre-1972 spousal trust" in subsection 108(1) at the end of the year or a trust described in paragraph (4)(a) and the taxpayer's spouse referred to in that definition or paragraph is alive at the end of the year, an amount equal to

(i) if the beneficiary is that spouse, the trust's accumulating income for the year, and

(ii) in any other case, nil;

(b) where paragraph (a) does not apply and the beneficiary's interest in the trust is not solely contingent on the death of another beneficiary who has a capital interest in the trust and who does not have an income interest in the trust, the trust's accumulating income for the year; and

(c) in any other case, nil.

**(10) Subsection 104(18) of the Act is replaced by the following:**

Trust for minor

(18) Where any part of the amount that, but for subsections (6) and (12), would be the income of a trust for a taxation year throughout which it was resident in Canada

(a) has not become payable in the year,

(b) was held in trust for an individual who did not attain 21 years of age before the end of the year,

(c) the right to which vested at or before the end of the year otherwise than because of the exercise by any person of, or the failure of any person to exercise, any discretionary power, and

(d) the right to which is not subject to any future condition (other than a condition that the individual survive to an age not exceeding 40 years),

notwithstanding subsection (24), that part of the amount is, for the purposes of subsections (6) and (13), deemed to have become payable to the individual in the year.

**(11) Paragraph 104(23)(a) of the Act is replaced by the following:**

(a) the taxation year of the trust is the period for which the accounts of the trust are made up for purposes of assessment under this Act, but no such period may exceed 12 months and no change in the time when such a period ends may be made for the purposes of this Act without the concurrence of the Minister;

**(12) Subsections (1) and (2) apply to trust taxation years that end after February 11, 1991.**

**(13) Subsections (3) and (4) apply after February 11, 1991.**

**(14) Subsection (6) applies to trust taxation years that end after July 19, 1995.**

**(15) Subsections (7) to (10) apply to trust taxation years that begin after 1995.**

**(16) Subsection (11) applies after 1994.**

**19. (1) The definition "accumulating income" in subsection 108(1) of the Act is replaced by the following:**

"accumulating  
income"  
« *revenu  
accumulé* »

"accumulating income" of a trust for a taxation year means the amount that would be the income of the trust for the year if that amount were

(a) computed without reference to subsections 104(5.1) and (12),

(b) computed as if the greatest amount that the trust was entitled to claim under subsection 104(6) in computing its income for the year were so claimed,

(c) where the trust

(i) is a pre-1972 spousal trust at the end of the year,

(ii) is described in paragraph 104(4)(a), or

(iii) elected under subsection 104(5.3) for a preceding taxation year,

computed without reference to subsections 104(4), (5) and (5.2) and 107(4),

(d) where the trust is described in paragraph 104(4)(a) and the taxpayer's spouse referred to in that paragraph died on a day in that year, computed as if any disposition by the trust before the end of that day of capital property, land described in an inventory of the trust, Canadian resource property or foreign resource property had not occurred, and

(e) computed without reference to subsection 12(10.2), except to the extent that that subsection applies to amounts paid to a trust to which paragraph 70(6.1)(b) applies and before the death of the spouse referred to in that paragraph;

**(2) The definition "preferred beneficiary" in subsection 108(1) of the Act is replaced by the following:**

"preferred  
beneficiary"  
« *bénéficiaire  
privilégié* »

"preferred beneficiary" under a trust for a particular taxation year of the trust means an individual

(a) who is resident in Canada and a beneficiary under the trust at the end of the particular year,

(b) in respect of whom paragraphs 118.3(1)(a) to (b) apply for the individual's taxation year in which the particular year ends, and

(c) who is

- (i) the settlor of the trust,
- (ii) the spouse or former spouse of the settlor of the trust,  
or
- (iii) a child, grandchild or great grandchild of the settlor  
of the trust, or the spouse of any such person;

**(3) Subsection (1) applies to trust taxation years that end after July 19, 1995.**

**(4) Subsection (2) applies to trust taxation years that begin after 1995.**

**20. (1) Subsection 110.1(1) 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):**

Ecological  
gifts

(d) the total of all amounts each of which is the fair market value of a gift (other than a gift in respect of which an amount is or was deducted under paragraph (a), (b) or (c)) of land, including a servitude for the use and benefit of a dominant land, a covenant or an easement, that is certified by the Minister of the Environment, or a person designated by that Minister, to be ecologically sensitive land, the conservation and protection of which is, in the opinion of that Minister, or that person, important to the preservation of Canada's environmental heritage, which gift was made by the corporation in the year (or in any of the 5 immediately preceding taxation years to the extent that the amount was not deducted in computing its taxable income for any preceding taxation year) to

- (i) a Canadian municipality, or
- (ii) a registered charity one of the main purposes of which is, in the opinion of the Minister of the Environment, the conservation and protection of Canada's environmental heritage, and that is approved by that Minister, or that person, in respect of that gift,

and not exceeding the amount remaining, if any, after the amounts deducted for the year under paragraphs (a), (b) and (c) are deducted in computing the corporation's taxable income for the year.

**(2) Subparagraph 110.1(3)(a)(i) of the Act is replaced by the**

**following:**

<[ip4n,4n]>(i) capital property to a donee described in paragraph (1)(a), (b) or (d), or

**(3) Subsections (1) and (2) apply to gifts made after February 27, 1995.**

**21. (1) Subparagraph 110.6(24)(a)(i) of the Act is replaced by the following:**

(i) if the election is in respect of a business of the elector, on or before the individual's filing-due date for the taxation year in which the fiscal period of the business that includes February 22, 1994 ends, and

**(2) Subsection (1) applies to the 1995 and subsequent taxation years.**

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

(b) the amounts expressed in dollars in subsection 117(2), paragraphs (c) and (d) of the description of B in subsection 118(1), subsections 118(2), 118.2(1) and 118.3(1) and Part I.2

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

**23. (1) The portion of the definition "total charitable gifts" in subsection 118.1(1) of the Act before paragraph (a) is replaced by the following:**

"total  
charitable  
gifts"  
« *total des  
dons de  
bienfaisance* »

"total charitable gifts" of an individual for a taxation year means the total of all amounts each of which is the fair market value of a gift (other than a gift the fair market value of which is included in the total Crown gifts, the total cultural gifts or the total ecological gifts of the individual for the year) made by the individual in the year or in any of the 5 immediately preceding taxation years (other than in a year for which a deduction under subsection 110(2) was claimed in computing the individual's taxable income) to

**(2) The portion of the definition "total Crown gifts" in subsection 118.1(1) of the Act before paragraph (a) is replaced by the following:**

"total Crown  
gifts"  
« *total des  
dons à l'État* »

"total Crown gifts" of an individual for a taxation year means the total of all amounts each of which is the fair market value of a gift (other than a gift the fair market value of which is included in the total cultural gifts or the total ecological gifts of the individual for the year) made by the individual in the year or in any of the 5 immediately preceding taxation years to Her Majesty in right of Canada or a province, to the extent that those amounts were

**(3) The definition "total gifts" in subsection 118.1(1) 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) the individual's total ecological gifts for the year.

**(4) Subsection 118.1(1) of the Act is amended by adding the following in alphabetical order:**

"total  
ecological  
gifts"  
« *total des  
dons de biens  
écosensibles* »

"total ecological gifts" of an individual for a taxation year means the total of all amounts each of which is the fair market value of a gift (other than a gift the fair market value of which is included in the total cultural gifts of the individual for the year) of land, including a servitude for the use and benefit of a dominant land, a covenant or an easement, that is certified by the Minister of the Environment, or a person designated by that Minister, to be ecologically sensitive land, the conservation and protection of which is, in the opinion of that Minister, or that person, important to the preservation of Canada's environmental heritage, which gift was made by the individual in the year or in any of the 5 immediately preceding taxation years to

(a) a Canadian municipality, or



(b) a registered charity one of the main purposes of which is, in the opinion of the Minister of the Environment, the conservation and protection of Canada's environmental heritage, and that is approved by that Minister, or that person, in respect of that gift,

to the extent that those amounts were not included in determining an amount that was deducted under this section in computing the individual's tax payable under this Part for a preceding taxation year;

**(5) Subsection 118.1(2) of the Act is replaced by the following:**

Proof of gift

(2) A gift shall not be included in the total charitable gifts, total Crown gifts, total cultural gifts or total ecological gifts of an individual unless the making of the gift is proven by filing with the Minister a receipt therefor that contains prescribed information.

**(6) Paragraph 118.1(6)(a) of the Act is replaced by the following:**

(a) capital property to a donee described in the definition "total charitable gifts", "total Crown gifts" or "total ecological gifts" in subsection (1), or

**(7) Subsections (1) to (6) apply to gifts made after February 27, 1995.**

**24. (1) The portion of section 123.2 of the Act before paragraph (b) is replaced by the following:**

Corporate  
surtax

**123.2** There shall be added to the tax otherwise payable under this Part for each taxation year by a corporation (other than a corporation that was throughout the year a non-resident-owned investment corporation) an amount equal to 4% of the amount, if any, by which

(a) the tax payable under this Part by the corporation for the year determined without reference to this section, sections 123.3 and 125 to 126 and subsections 127(3) and (5) and 137(3) and as if subsection 124(1) did not contain the words "in a province"

exceeds

(2) Subsection (1) applies to taxation years that end after February 27, 1995 except that, in applying section 123.2 of the Act, as amended by subsection (1), to a taxation year that began before February 28, 1995, the amount otherwise determined under that section shall be reduced by that proportion of 1/4 of that amount that the number of days in the year that are before February 28, 1995 is of the number of days in the year.

25. (1) The Act is amended by adding the following after section 123.2:

Refundable tax  
on CCPC's  
investment  
income

123.3 There shall be added to the tax otherwise payable under this Part for each taxation year by a corporation that is throughout the year a Canadian-controlled private corporation an amount equal to  $6 \frac{2}{3}\%$  of the lesser of

(a) the corporation's aggregate investment income for the year (within the meaning assigned by subsection 129(4)), and

(b) the amount, if any, by which its taxable income for the year exceeds the least of the amounts determined in respect of it for the year under paragraphs 125(1)(a) to (c).

(2) Subsection (1) applies to taxation years that end after June 1995 except that, in its application to such taxation years that begin before July 1995, the reference in section 123.3 of the Act, as enacted by subsection (1), to " $6 \frac{2}{3}\%$ " shall be read as "that proportion of  $6 \frac{2}{3}\%$  that the number of days in the year that are after June 1995 is of the number of days in the year".

26. (1) Subparagraph 125(1)(b)(i) of the Act is replaced by the following:

(i)  $\frac{10}{3}$  of the total of the amounts that would be deductible under subsection 126(1) from the tax for the year otherwise payable under this Part by it if those amounts were determined without reference to section 123.3,

(2) The formula in subsection 125(5.1) of the Act is replaced by the following:

$$\$11,250 \quad \frac{A \times B}{\quad}$$

(3) Paragraph (a) of the definition "income of the corporation

**for the year from an active business" in subsection 125(7) of the Act is replaced by the following:**

(a) the corporation's income for the year from an active business carried on by it including any income for the year pertaining to or incident to that business, other than income for the year from a source in Canada that is a property (within the meaning assigned by subsection 129(4)), and

**(4) The description of G in the definition "specified partnership income" in subsection 125(7) of the Act is replaced by the following:**

G is the total of all amounts each of which is the corporation's share of the income (determined in accordance with subdivision j of Division B) of the partnership for a fiscal period of the business that ends in the year or an amount included in the corporation's income for the year from the business because of subsection 34.2(5), and

**(5) Subsections (1) and (3) apply to taxation years that end after June 1995.**

**(6) Subsection (2) applies,**

(a) where a corporation is not associated with any other corporation in a particular taxation year and the corporation's preceding taxation year began after February 27, 1995, to the corporation's particular year and subsequent taxation years; and

(b) where a particular corporation is associated with one or more other corporations in a particular taxation year that ends in a calendar year and the last taxation year of the particular corporation and of each of the other corporations that ended in the preceding calendar year began after February 27, 1995, to the particular year and subsequent taxation years of the particular corporation.

**(7) Subsection (4) applies to the 1995 and subsequent taxation years.**

**27. (1) Subparagraph 125.1(1)(b)(iii) of the Act is replaced by the following:**

(iii) where the corporation was a Canadian-controlled private corporation throughout the year, its aggregate investment income for the year (within the meaning assigned by subsection 129(4)).

(2) Subsection (1) applies to taxation years that end after June 1995.

28. (1) The Act is amended by adding the following after section 125.3:

*Canadian Film or Video Production Tax Credit*

Definitions

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

"assistance"  
« *montant  
d'aide* »

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

"Canadian film  
or video  
production"  
« *production  
cinématogra-  
phique ou  
magnéto-  
copique  
canadienne* »

"Canadian film or video production" has the meaning assigned by regulation.  
<?[cn]>  
<?[cn]>

"Canadian film  
or video  
production  
certificate"  
« *certificat de  
production  
cinématogra-  
phique ou  
magnéto-*

*copique*  
*canadienne* »

"Canadian film or video production certificate" means a certificate issued in respect of a production by the Minister of Canadian Heritage

(a) certifying that the production is a Canadian film or video production, and

(b) estimating amounts relevant for the purpose of determining the amount deemed under subsection (3) to have been paid in respect of the production.

"investor"  
« *investisseur* »

"investor" means a person, other than a prescribed person, who is not actively engaged on a regular, continuous and substantial basis in a business carried on through a permanent establishment (as defined by regulation) in Canada that is a Canadian film or video production business.

"labour  
expenditure"  
« *dépense de  
main-d'oeuvre* »

"labour expenditure" of a corporation for a taxation year in respect of a property of the corporation that is a Canadian film or video production means, in the case of a corporation that is not a qualified corporation for the year, nil, and in the case of a corporation that is a qualified corporation for the year, subject to subsection (2), the total of the following amounts to the extent that they are reasonable in the circumstances and included in the cost or, in the case of depreciable property, the capital cost to the corporation of the property:

(a) the salary or wages directly attributable to the production that are incurred after 1994 and in the year, or the preceding taxation year, by the corporation for the stages of production of the property, from the final script stage to the end of the post-production stage, and paid by it in the year or within 60 days after the end of the year (other than amounts incurred in that preceding year that were paid within 60 days after the end of that preceding year),

(b) that portion of the remuneration (other than salary or wages and other than remuneration that relates to services

rendered in the preceding taxation year and that was paid within 60 days after the end of that preceding year) that is directly attributable to the production of property, that relates to services rendered after 1994 and in the year, or that preceding year, to the corporation for the stages of production, from the final script stage to the end of the post-production stage, and that is paid by it in the year or within 60 days after the end of the year to

(i) an individual who is not an employee of the corporation, to the extent that the amount paid

(A) is attributable to services personally rendered by the individual for the production of the property, or

(B) is attributable to and does not exceed the salary or wages of the individual's employees for personally rendering services for the production of the property,

(ii) another taxable Canadian corporation, to the extent that the amount paid is attributable to and does not exceed the salary or wages of the other corporation's employees for personally rendering services for the production of the property,

(iii) another taxable Canadian corporation all the issued and outstanding shares of the capital stock of which (except directors' qualifying shares) belong to an individual and the activities of which consist principally of the provision of the individual's services, to the extent that the amount paid is attributable to services rendered personally by the individual for the production of the property, or

(iv) a partnership that is carrying on business in Canada, to the extent that the amount paid

(A) is attributable to services personally rendered by an individual who is a member of the partnership for the production of the property, or

(B) is attributable to and does not exceed the salary or wages of the partnership's employees for personally rendering services for the production of the property, and

(c) where

(i) the corporation is a subsidiary wholly-owned corporation of another taxable Canadian corporation (in this section referred to as the "parent"), and

(ii) the corporation and the parent have agreed that this paragraph apply in respect of the production,

the reimbursement made by the corporation in the year, or within 60 days after the end of the year, of an expenditure that was incurred by the parent in a particular taxation year of the parent in respect of that production and that would be included in the labour expenditure of the corporation in respect of the property for the particular taxation year because of paragraph (a) or (b) if

(iii) the corporation had had such a particular taxation year, and

(iv) the expenditure were incurred by the corporation for the same purpose as it was by the parent and were paid at the same time and to the same person or partnership as it was by the parent.

"qualified  
corporation"  
« *société  
admissible* »

"qualified corporation" for a taxation year means a corporation that is throughout the year a prescribed taxable Canadian corporation the activities of which in the year are primarily the carrying on through a permanent establishment (as defined by regulation) in Canada of a business that is a Canadian film or video production business.

"qualified  
labour  
expenditure"  
« *dépense de  
main-d'oeuvre  
admissible* »

"qualified labour expenditure" of a corporation for a taxation year in respect of a property of the corporation that is a Canadian film or video production means the lesser of

(a) the amount, if any, by which

(i) the total of

(A) the labour expenditure of the corporation for the year in respect of the production, and

(B) the amount by which the total of all amounts each of which is the labour expenditure of the corporation for a preceding taxation year in respect of the production exceeds the total of all amounts each of which is a qualified labour expenditure of the corporation in respect of the production for a preceding taxation year before the end of which the principal filming or taping of the production began

exceeds

(ii) where the corporation is a parent, the total of all amounts each of which is an amount that is the subject of an agreement in respect of the production referred to in paragraph (c) of the definition "labour expenditure" between the corporation and its wholly-owned corporation, and

(b) the amount determined by the formula

$$A - B$$

where

A is 48% of the amount by which

(i) the cost or, in the case of depreciable property, the capital cost to the corporation of the production at the end of the year,

exceeds

(ii) the total of all amounts each of which is an amount of assistance in respect of that cost that, at the time of the filing of its return of income for the year, the corporation or any other person or partnership has received, is entitled to receive or can reasonably be expected to receive, that has not been repaid before that time pursuant to a legal obligation to do so (and that does not otherwise reduce that cost), and

B is the total of all amounts each of which is the qualified labour expenditure of the corporation in respect of the production for a preceding taxation year before the end of which the principal filming or taping of the production began.

"salary or  
wages"  
« *traitement ou  
salaire* »



"salary or wages" does not include an amount described in section 7 or any amount determined by reference to profits or revenues.

Rules governing  
labour  
expenditure of  
a corporation

(2) For the purpose of the definition "labour expenditure" in subsection (1),

(a) remuneration does not include remuneration determined by reference to profits or revenues; and

(b) services referred to in paragraph (b) of that definition that relate to the post-production stage of the production include only the services that are rendered at that stage by a person who performs the duties of animation cameraman, assistant colourist, assistant mixer, assistant sound-effects technician, boom operator, colourist, computer graphics designer, cutter, developing technician, director of post production, dubbing technician, encoding technician, inspection technician – clean up, mixer, optical effects technician, picture editor, printing technician, projectionist, recording technician, senior editor, sound editor, sound-effects technician, special effects editor, subtitle technician, timer, video-film recorder operator, videotape operator or by a person who performs a prescribed duty.

Tax credit

(3) Where

(a) a qualified corporation for a taxation year files with its return of income for the year

(i) a Canadian film or video production certificate issued in respect of a Canadian film or video production of the corporation,

(ii) a prescribed form containing prescribed information, and

(iii) each other document prescribed in respect of the production, and

(b) the principal filming or taping of the production began before the end of the year,

the corporation is deemed to have paid, on the day referred to in paragraph 157(1)(b) on or before which the corporation would be required to pay the remainder of its tax payable under this Part

for the year if such a remainder were payable, an amount on account of its tax payable under this Part for the year equal to 25% of its qualified labour expenditure for the year in respect of the production.

#### Exception

(4) This section does not apply to a Canadian film or video production where an investor, or a partnership in which an investor has an interest, directly or indirectly, may deduct an amount in respect of the production in computing its income for any taxation year.

#### When assistance received

(5) For the purposes of this Act other than this section, and for greater certainty, the amount that a corporation is deemed under subsection (3) to have paid for a taxation year is assistance received by the corporation from a government immediately before the end of the year.

#### Revocation of a certificate

(6) A Canadian film or video production certificate in respect of a production may be revoked by the Minister of Canadian Heritage where

(a) an omission or incorrect statement was made for the purpose of obtaining the certificate, or

(b) the production is not a Canadian film or video production,

and, for the purpose of subparagraph (3)(a)(i), a certificate that has been revoked is deemed never to have been issued.

**(2) Subsection (1) applies to the 1995 and subsequent taxation years.**

**29. (1) Paragraphs (b) and (c) of the definition "tax for the year otherwise payable under this Part" in subsection 126(7) of the Act are replaced by the following:**

(b) in subparagraph (2)(c)(i) and paragraph (2.2)(b), the tax for the year payable under this Part (determined without reference to sections 120.1, 120.3 and 123.3 and before making any deduction under any of sections 121, 122.3, 124 to 127 and 127.2 to 127.41), and

(c) in subsection (2.1), the tax for the year payable under this Part (determined without reference to subsection 120(1) and sections 120.1, 120.3 and 123.3 and before making any deduction under any of sections 121, 122.3, 124 to 127 and 127.2 to 127.41);

**(2) Subsection (1) applies to taxation years that end after June 1995.**

**30. (1) Subparagraph 127(5)(a)(i) of the Act is replaced by the following:**

(i) the taxpayer's investment tax credit at the end of the year in respect of property acquired before the end of the year or of the taxpayer's SR&ED qualified expenditure pool at the end of the year or of a preceding taxation year, and

**(2) Clause 127(5)(a)(ii)(A) of the Act is replaced by the following:**

(A) the taxpayer's investment tax credit at the end of the year in respect of property acquired in a subsequent taxation year or of the taxpayer's SR&ED qualified expenditure pool at the end of a subsequent taxation year to the extent that an investment tax credit was not deductible under this subsection or subsection 180.1(1.2) for the subsequent year, and

**(3) Subsection 127(7) of the Act is replaced by the following:**

Investment tax  
credit of  
testamentary  
trust

(7) Where, in a particular taxation year of a taxpayer who is a beneficiary under a testamentary trust or under an *inter vivos* trust that is deemed to be in existence by section 143, an amount is determined in respect of the trust under paragraph (a), (a.1), (b) or (e.1) of the definition "investment tax credit" in subsection (9) for its taxation year that ends in that particular taxation year, the trust may, in its return of income for its taxation year that ends in that particular taxation year, designate the portion of that amount that can, having regard to all the circumstances including the terms and conditions of the trust, reasonably be considered to be attributable to the taxpayer and was not designated by the trust in respect of any other beneficiary of the trust, and that portion shall be added in computing the investment tax credit of the taxpayer at the end of that particular taxation year and shall be deducted in computing the investment tax

credit of the trust at the end of its taxation year that ends in that particular taxation year.

**(4) Subparagraph 127(8)(b)(ii) of the Act is replaced by the following:**

(ii) paragraph (e.1) of that definition were read without reference to the words "the amount of an expenditure made by the taxpayer under paragraph (11.1)(c)",

**(5) Subsection 127(8) of the Act is replaced by the following:**

Investment tax  
credit of  
partnership

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

(a) except for the purpose of subsection (13), the partnership were a person and its fiscal period were its taxation year, and

(b) in the case of a taxpayer who is a specified member of the partnership in the taxation year of the partnership, that definition were read without reference to paragraph (a.1) thereof, and paragraph (e.1) of that definition were read without reference to subparagraphs (ii) to (iv) thereof,

the portion of that amount that can reasonably be considered to be the taxpayer's share thereof shall be added in computing the investment tax credit of the taxpayer at the end of the particular year.

**(6) The portion of subsection 127(8.1) of the Act before paragraph (a) is replaced by the following:**

Investment tax  
credit of  
limited partner

(8.1) Where a taxpayer is a limited partner of a partnership at the end of the partnership's taxation year, the amount referred to under subsection (8) as the amount which can reasonably be considered to be the taxpayer's share of the amounts that would be determined under paragraph (a), (a.1), (b) or (e.1) of the definition "investment tax credit" in subsection (9) in respect of

the partnership for the year shall not exceed the lesser of

**(7) Subparagraph 127(8.2)(b)(i) of the Act is replaced by the following:**

(i) the total of all amounts each of which is, if the partnership were a person and its fiscal period were its taxation year,

(A) an amount a specified percentage of which would be determined in respect of the partnership under paragraph (a), (b) or (e.1) of the definition "investment tax credit" in subsection (9) for the year, or

(B) the amount that would be the SR&ED qualified expenditure pool of the partnership at the end of the year, and

**(8) Paragraph 127(8.3)(a) of the Act is replaced by the following:**

(a) the amount that would, if the partnership were a person and its fiscal period were its taxation year, be determined in respect of the partnership under paragraph (a), (a.1), (b) or (e.1) of the definition "investment tax credit" in subsection (9) for a taxation year

**(9) The definitions "approved project property", "qualified Canadian exploration expenditure", "qualified construction equipment", "qualified small-business property" and "qualified transportation equipment" in subsection 127(9) of the Act are repealed.**

**(10) The definition "qualified expenditure" in subsection 127(9) of the Act is replaced by the following:**

"qualified  
expenditure"  
« *dépense*  
*admissible* »

"qualified expenditure" incurred by a taxpayer in a taxation year means

(a) an amount that is an expenditure incurred in the year by the taxpayer in respect of scientific research and experimental development that is an expenditure

(i) for first term shared-use-equipment or second term shared-use-equipment,

(ii) described in paragraph 37(1)(a), or

(iii) described in subparagraph 37(1)(b)(i), or

(b) a prescribed proxy amount of the taxpayer for the year (which, for the purpose of paragraph (e), is deemed to be an amount incurred in the year),

but does not include

(c) a prescribed expenditure incurred in the year by the taxpayer,

(d) where the taxpayer is a corporation, an expenditure specified by the taxpayer for the year for the purpose of clause 194(2)(a)(ii)(A),

(e) subject to subsection (11.4), an amount in respect of which the taxpayer does not file with the Minister a prescribed form containing prescribed information on or before the day that is 12 months after the taxpayer's filing-due date for the particular taxation year in which the amount would have been incurred if this Act were read without reference to subsections (26) and 78(4) where the particular year begins after 1995,

(f) an expenditure (other than an expenditure that is salary or wages of an employee of the taxpayer) incurred by the taxpayer in respect of scientific research and experimental development to the extent that it is performed for or on behalf of the taxpayer at a time when the taxpayer and the person or partnership to which the expenditure is paid or payable do not deal with each other at arm's length,

(g) an expenditure described in paragraph 37(1)(a), other than an expenditure on scientific research and experimental development directly undertaken by the taxpayer, that is paid or payable by the taxpayer to or for the benefit of a person or partnership that is not a taxable supplier in respect of the expenditure, and

(h) an amount that would otherwise be a qualified expenditure incurred by the taxpayer in the year to the extent of any reduction in respect of the amount that is required under any of subsections (18) to (20) to be applied;

**(11) Paragraph (a) of the definition "contract payment" in subsection 127(9) of the Act is replaced by the following:**

(a) an amount paid or payable to a taxpayer, by a taxable supplier in respect of the amount, for scientific research and

experimental development to the extent that it is performed

(i) for or on behalf of a person or partnership entitled to a deduction in respect of the amount because of subparagraph 37(1)(a)(i) or (i.1), and

(ii) at a time when the taxpayer is dealing at arm's length with the person or partnership, or

**(12) Paragraph (a) of the definition "investment tax credit" in subsection 127(9) of the Act is replaced by the following:**

(a) the total of all amounts each of which is the specified percentage of the capital cost to the taxpayer of certified property or qualified property acquired by the taxpayer in the year,

(a.1) 20% of the taxpayer's SR&ED qualified expenditure pool at the end of the year,

**(13) Paragraph (c) of the definition "investment tax credit" in subsection 127(9) of the Act is replaced by the following:**

(c) the total of all amounts each of which is an amount determined under paragraph (a), (a.1) or (b) in respect of the taxpayer for any of the 10 taxation years immediately preceding or the 3 taxation years immediately following the year,

**(14) The portion of the definition "investment tax credit" in subsection 127(9) of the Act after paragraph (e) and before paragraph (g) is replaced by the following:**

(e.1) the total of all amounts each of which is the specified percentage of that part of a repayment made by the taxpayer in the year or in any of the 10 taxation years immediately preceding or the 3 taxation years immediately following the year that can reasonably be considered to be a repayment of government assistance, non-government assistance or a contract payment that reduced

(i) the capital cost to the taxpayer of a property under paragraph (11.1)(b),

(ii) the amount of a qualified expenditure incurred by the taxpayer under paragraph (11.1)(c) for taxation years that began before 1996,

(iii) the prescribed proxy amount of the taxpayer under paragraph (11.1)(f) for taxation years that began before 1996, or

(iv) a qualified expenditure incurred by the taxpayer under any of subsections (18) to (20), and

(e.2) the total of all amounts each of which is the specified percentage of 1/4 of that part of a repayment made by the taxpayer in the year or in any of the 10 taxation years immediately preceding or the 3 taxation years immediately following the year that can reasonably be considered to be a repayment of government assistance, non-government assistance or a contract payment that reduced

(i) the amount of a qualified expenditure incurred by the taxpayer under paragraph (11.1)(e) for taxation years that began before 1996, or

(ii) a qualified expenditure incurred by the taxpayer under any of subsections (18) to (20),

in respect of first term shared-use-equipment or second term shared-use-equipment, and, for that purpose, a repayment made by the taxpayer in any taxation year preceding the first taxation year that ends coincidentally with the first period or the second period in respect of first term shared-use-equipment or second term shared-use-equipment, respectively, is deemed to have been incurred by the taxpayer in that first taxation year,

exceeds the total of

(f) the total of all amounts each of which is an amount deducted under subsection (5) from the tax otherwise payable under this Part by the taxpayer for a preceding taxation year in respect of property acquired, or an expenditure incurred, in the year or in any of the 10 taxation years immediately preceding or the 2 taxation years immediately following the year, or in respect of the taxpayer's SR&ED qualified expenditure pool at the end of such a year,

**(15) Paragraph (g) of the definition "investment tax credit" in subsection 127(9) of the Act is amended by adding the word "or" at the end of subparagraph (i), by repealing subparagraph (ii) and by replacing subparagraph (iii) with the following:**

(iii) at the end of any of the 9 taxation years immediately preceding or the 3 taxation years immediately following the year,

**(16) Paragraph (h) of the definition "investment tax credit" in subsection 127(9) of the Act is amended by adding the word "or" at the end of subparagraph (i), by repealing subparagraph (ii) and by replacing subparagraph (iii) with the following:**



(iii) at the end of any of the 10 taxation years immediately preceding or the 3 taxation years immediately following the year,

**(17) The portion of the definition "investment tax credit" in subsection 127(9) of the Act after paragraph (k) is replaced by the following:**

except that no amount shall be included in the total determined under any of paragraphs (a) to (e.2) in respect of any qualified expenditure incurred by the taxpayer in the course of earning income from a business, or in respect of any certified property or qualified property acquired by the taxpayer for use in the course of earning income from a business, if any of the income from that business is exempt from tax under this Part;

**(18) Subsection 127(9) of the Act is amended by adding the following in alphabetical order:**

"SR&ED  
qualified  
expenditure  
pool"  
« *compte de  
dépenses  
admissibles de  
recherche et de  
développement* »

"SR&ED qualified expenditure pool" of a taxpayer at the end of a taxation year means the amount determined by the formula

$$A + B - C$$

where

A is the total of all amounts each of which is a qualified expenditure incurred by the taxpayer in the year,

B is the total of all amounts each of which is an amount determined under paragraph (13)(e) for the year in respect of the taxpayer, and in respect of which the taxpayer files with the Minister a prescribed form containing prescribed information by the day that is 12 months after the taxpayer's filing-due date for the year, and

C is the total of all amounts each of which is an amount determined under paragraph (13)(d) for the year in respect of the taxpayer;

"taxable  
supplier"  
« *fournisseur*  
*imposable* »

"taxable supplier" in respect of an amount means

- (a) a person resident in Canada or a Canadian partnership, or
- (b) a non-resident person, or a partnership that is not a Canadian partnership,
  - (i) by which the amount was payable, or
  - (ii) by or for the benefit of which the amount was receivable in the course of carrying on a business through a permanent establishment (as defined by regulation) in Canada.

**(19) Subsection 127(10.1) of the Act is replaced by the following:**

Additions to  
investment tax  
credit

(10.1) For the purpose of paragraph (e) of the definition "investment tax credit" in subsection (9), where a corporation was throughout a taxation year a Canadian-controlled private corporation, there shall be added in computing the corporation's investment tax credit at the end of the year the amount that is 15% of the least of

- (a) such amount as the corporation claims;
- (b) the SR&ED qualified expenditure pool of the corporation at the end of the year; and
- (c) the corporation's expenditure limit for the year.

**(20) Subsections 127(10.7) and (10.8) of the Act are replaced by the following:**

Further  
additions to  
investment tax  
credit

(10.7) Where a taxpayer has in a particular taxation year repaid an amount of government assistance, non-government assistance or a contract payment that was applied to reduce

(a) the amount of a qualified expenditure incurred by the taxpayer under paragraph (11.1)(c) for a preceding taxation year that began before 1996,

(b) the prescribed proxy amount of the taxpayer under paragraph (11.1)(f) for a preceding taxation year that began before 1996, or

(c) a qualified expenditure incurred by the taxpayer under any of subsections (18) to (20) for a preceding taxation year,

there shall be added to the amount otherwise determined under subsection (10.1) in respect of the taxpayer for the particular year the amount, if any, by which

(d) the amount that would have been determined under subsection (10.1) in respect of the taxpayer for that preceding year if subsections (11.1) and (18) to (20) had not applied in respect of the government assistance, non-government assistance or contract payment, as the case may be, to the extent of the amount so repaid,

exceeds

(e) the amount determined under subsection (10.1) in respect of the taxpayer for that preceding year.

Further  
additions to  
investment tax  
credit

(10.8) For the purposes of paragraph (e.1) of the definition "investment tax credit" in subsection (9), subsection (10.7) and paragraph 37(1)(c), an amount of government assistance, non-government assistance or a contract payment that

(a) was applied to reduce

(i) the capital cost to a taxpayer of a property under paragraph (11.1)(b),

(ii) the amount of a qualified expenditure incurred by a taxpayer under paragraph (11.1)(c) for taxation years that began before 1996,

(iii) the prescribed proxy amount of a taxpayer under paragraph (11.1)(f) for taxation years that began before 1996, or

(iv) a qualified expenditure incurred by a taxpayer under any

of subsections (18) to (20),

(b) was not received by the taxpayer, and

(c) ceased in a taxation year to be an amount that the taxpayer can reasonably be expected to receive,

is deemed to be the amount of a repayment by the taxpayer in the year of the government assistance, non-government assistance or contract payment, as the case may be.

**(21) Paragraph 127(11.1)(c) of the Act is repealed.**

**(22) Subsection 127(11.1) of the Act is amended by adding the word "and" at the end of paragraph (c.1) and by repealing paragraphs (e) and (f).**

**(23) Subsection 127(11.2) of the Act is replaced by the following:**

Time of  
expenditure and  
acquisition

(11.2) In applying subsections (5), (7) and (8), paragraphs (a) and (a.1) of the definition "investment tax credit" in subsection (9) and section 127.1,

(a) certified property, qualified property and first term shared-use-equipment are deemed not to have been acquired, and

(b) expenditures incurred to acquire property described in subparagraph 37(1)(b)(i) are deemed not to have been incurred

by a taxpayer before the property is considered to have become available for use by the taxpayer, determined without reference to paragraphs 13(27)(c) and (28)(d).

**(24) Subsection 127(11.4) of the Act is replaced by the following:**

Reclassified  
expenditures

(11.4) Paragraph (e) of the definition "qualified expenditure" in subsection (9) does not apply to an expenditure incurred in a taxation year by a taxpayer where the expenditure is reclassified by the Minister on an assessment of the taxpayer's tax payable under this Part for the year, or on a determination that no tax

under this Part is payable for the year by the taxpayer, as an expenditure in respect of scientific research and experimental development.

Adjustments to  
qualified  
expenditures

(11.5) For the purpose of the definition "qualified expenditure" in subsection (9),

(a) the amount of an expenditure (other than a prescribed proxy amount or an amount described in paragraph (b)) incurred by a taxpayer in a taxation year is deemed to be the amount of the expenditure, determined without reference to subsections 13(7.1) and (7.4) and after the application of subsection (11.6); and

(b) the amount of an expenditure incurred by a taxpayer in the taxation year that ends coincidentally with the end of the first period (within the meaning assigned in the definition "first term shared-use-equipment" in subsection (9)) or the second period (within the meaning assigned in the definition "second term shared-use-equipment" in subsection (9)) in respect of first term shared-use-equipment or second term shared-use-equipment, respectively, of the taxpayer is deemed to be 1/4 of the capital cost of the equipment determined after the application of subsection (11.6) in accordance with the following rules:

(i) the capital cost to the taxpayer shall be computed as if no amount were added thereto because of section 21, and

(ii) the capital cost to the taxpayer is determined without reference to subsections 13(7.1) and (7.4).

Non-arm's  
length costs

(11.6) For the purpose of subsection (11.5), where

(a) a taxpayer would, if this Act were read without reference to subsection (26), incur at any time an expenditure as consideration for a person or partnership (referred to in this subsection as the "supplier") rendering a service (other than a service rendered by a person as an employee of the taxpayer) or providing a property to the taxpayer, and

(b) at that time the taxpayer does not deal at arm's length with the supplier,

the amount of the expenditure incurred by the taxpayer for the

service or property and the capital cost to the taxpayer of the property are deemed to be

(c) in the case of a service rendered to the taxpayer, the lesser of

(i) the amount of the expenditure otherwise incurred by the taxpayer for the service, and

(ii) the adjusted service cost to the supplier of rendering the service, and

(d) in the case of a property sold to the taxpayer, the lesser of

(i) the capital cost to the taxpayer of the property otherwise determined, and

(ii) the adjusted selling cost to the supplier of the property.

#### Definitions

(11.7) The definitions in this subsection apply in this subsection and subsection (11.6).

"adjusted  
service cost"  
« *coût de  
service rajusté*  
»

"adjusted service cost" to a person or partnership (referred to in this definition as the "supplier") of rendering a particular service is the amount determined by the formula

$$A - B - C - D - E$$

where

A is the cost to the supplier of rendering the particular service,

B is the total of all amounts each of which is the amount, if any, by which

(a) the cost to the supplier for a service (other than a service rendered by a person as an employee of the supplier) rendered by a person or partnership that does not deal at arm's length with the supplier to the extent that the cost is incurred for the purpose of rendering the particular service

exceeds

(b) the adjusted service cost to the person or partnership referred to in paragraph (a) of rendering the service referred to in that paragraph to the supplier,

C is the total of all amounts each of which is the amount, if any, by which

(a) the cost to the supplier of a property acquired by the supplier from a person or partnership that does not deal at arm's length with the supplier

exceeds

(b) the adjusted selling cost to the person or partnership referred to in paragraph (a) of the property,

to the extent that the excess relates to the cost of rendering the particular service,

D is the total of all amounts each of which is remuneration based on profits or a bonus paid or payable to an employee of the supplier to the extent that it is included in the cost to the supplier of rendering the particular service, and

E is the total of all amounts each of which is government assistance or non-government assistance that can reasonably be considered to be in respect of rendering the particular service and that the supplier has received, is entitled to receive or can reasonably be expected to receive.

"adjusted  
selling cost"  
« coût de vente  
rajusté »

"adjusted selling cost" to a person or partnership (referred to in this definition as the "supplier") of a property is the amount determined by the formula

A - B

where

A is

(a) where the property is purchased from another person or

partnership with which the supplier does not deal at arm's length, the lesser of

(i) the cost to the supplier of the property, and

(ii) the adjusted selling cost to the other person or partnership of the property, and

(b) in any other case, the cost to the supplier of the property,

and for the purpose of paragraph (b),

(c) where part of the cost to a supplier of a particular property is attributable to another property acquired by the supplier from a person or partnership with which the supplier does not deal at arm's length, that part of the cost is deemed to be the lesser of

(i) the amount of that part of the cost otherwise determined, and

(ii) the adjusted selling cost to the person or the partnership of the other property,

(d) where part of the cost to a supplier of a property is attributable to a service (other than a service rendered by a person as an employee of the supplier) rendered to the supplier by a person or partnership with which the supplier does not deal at arm's length, that part of the cost is deemed to be the lesser of

(i) the amount of that part of the cost otherwise determined, and

(ii) the adjusted service cost to the person or partnership of rendering the service, and

(e) no part of the cost to a supplier of a property that is attributable to remuneration based on profits or a bonus paid or payable to an employee of the supplier shall be included, and

B is the total of all amounts each of which is the amount of government assistance or non-government assistance that can reasonably be considered to be in respect of the property and that the supplier has received, is entitled to receive or can reasonably be expected to receive.



Interpretation  
for non-arm's  
length costs

(11.8) For the purposes of this subsection and subsections (11.6) and (11.7),

(a) the cost to a person or partnership (referred to in this paragraph as the "supplier") of rendering a service or providing a property to another person or partnership (referred to in this paragraph as the "recipient") with which the supplier does not deal at arm's length does not include,

(i) where the cost to the recipient of the service rendered or property provided by the supplier would, but for this paragraph, be a cost to the recipient incurred in rendering a particular service or providing a particular property to a person or partnership with which the recipient does not deal at arm's length, any expenditure of the supplier to the extent that it would, if it were incurred by the recipient in rendering the particular service or providing the particular property, be excluded from a cost to the recipient because of this paragraph, and

(ii) in any other case, any expenditure of the supplier to the extent that it would, if it were incurred by the recipient, not be a qualified expenditure of the recipient;

(b) paragraph 69(1)(c) does not apply in determining the cost of a property; and

(c) the leasing of a property is deemed to be the rendering of a service.

**(25) Section 127 of the Act is amended by adding the following after subsection (12.3):**

Agreement to  
transfer  
qualified  
expenditures

(13) Where a taxpayer (referred to in this subsection and subsections (15) and (16) as the "transferor") and another taxpayer (referred to in this subsection and subsection (15) as the "transferee") file with the Minister an agreement or an amended agreement in respect of a particular taxation year of the transferor, the least of

(a) the amount specified in the agreement for the purpose of this

subsection,

(b) the amount that but for the agreement would be the transferor's SR&ED qualified expenditure pool at the end of the particular year, and

(c) the total of all amounts each of which is an amount that, if the transferor were dealing at arm's length with the transferee, would be a contract payment

(i) for the performance of scientific research and experimental development for, or on behalf of, the transferee,

(ii) that is paid by the transferee to the transferor on or before the day that is 180 days after the end of the particular year, and

(iii) that would be in respect of

(A) a qualified expenditure that

(I) would be incurred by the transferor in the particular year (if this Act were read without reference to subsections (26) and 78(4)) in respect of that portion of the scientific research and experimental development that was performed at a time when the transferor did not deal at arm's length with the transferee, and

(II) is paid by the transferor on or before the day that is 180 days after the end of the particular year, or

(B) an amount added because of this subsection to the transferor's SR&ED qualified expenditure pool at the end of the particular year where the amount is attributable to an expenditure in respect of the scientific research and experimental development

is deemed to be

(d) an amount determined in respect of the transferor for the particular year for the purpose of determining the value of C in the definition "SR&ED qualified expenditure pool" in subsection (9), and

(e) an amount determined in respect of the transferee for the transferee's first taxation year that ends at or after the end of the particular year for the purpose of determining the value of B in the definition "SR&ED qualified expenditure pool" in subsection (9),

and where the total of all amounts each of which is an amount specified in an agreement filed with the Minister under this subsection in respect of a particular taxation year of a transferor exceeds the amount that would be the transferor's SR&ED qualified expenditure pool at the end of the particular year if no agreement were filed with the Minister in respect of the particular year, the least of the amounts determined under paragraphs (a) to (c) in respect of each such agreement is deemed to be nil.

Identification  
of amounts  
transferred

(14) Where

(a) a transferor and a transferee have filed an agreement under subsection (13) in respect of a taxation year of the transferor,

(b) the agreement includes a statement identifying the amount specified in the agreement for the purpose of subsection (13), or a part of that amount, as being related to

(i) a particular qualified expenditure included in the value of A in the formula in the definition "SR&ED qualified expenditure pool" in subsection (9) for the purpose of determining the transferor's SR&ED qualified expenditure pool at the end of the year, or

(ii) a particular amount included in the value of B in the formula in that definition for the purpose of determining the transferor's SR&ED qualified expenditure pool at the end of the year that is deemed by paragraph (d) to be a qualified expenditure, and

(c) the total of all amounts so identified in agreements filed by the transferor under subsection (13) as being related to the particular expenditure or the particular amount does not exceed the particular expenditure or the particular amount, as the case may be,

for the purposes of this section (other than the description of A in the definition "SR&ED qualified expenditure pool" in subsection (9)) and section 127.1,

(d) the amount so identified that is included in the value of B in the formula in that definition for the purpose of determining the transferee's SR&ED qualified expenditure pool at the end of the taxation year of the transferee is deemed to be a qualified expenditure either of a current nature or of a capital nature,

incurred by the transferee in that year, where the particular expenditure or the particular amount was an expenditure of a current nature or of a capital nature, as the case may be, and

(e) except for the purpose of paragraph (b), the amount of the transferor's qualified expenditures of a current nature incurred in the taxation year of the transferor in respect of which the agreement is made is deemed not to exceed the amount by which the amount of such expenditures otherwise determined exceeds the total of all amounts identified under paragraph (b) by the transferor in agreements filed under subsection (13) in respect of the year as being related to expenditures of a current nature.

#### Invalid agreements

(15) An agreement or amended agreement referred to in subsection (13) between a transferor and a transferee is deemed not to have been filed with the Minister for the purpose of that subsection where

(a) it is not in prescribed form;

(b) it is not filed

(i) on or before the transferor's filing-due date for the particular taxation year to which the agreement relates,

(ii) in the period within which the transferor may serve a notice of objection to an assessment of tax payable under this Part for the particular year, or

(iii) in the period within which the transferee may serve a notice of objection to an assessment of tax payable under this Part for its first taxation year that ends at or after the end of the transferor's particular year;

(c) it is not accompanied by,

(i) where the transferor is a corporation and its directors are legally entitled to administer its affairs, a certified copy of their resolution authorizing the agreement to be made,

(ii) where the transferor is a corporation and its directors are not legally entitled to administer its affairs, a certified copy of the document by which the person legally entitled to administer its affairs authorized the agreement to be made,

(iii) where the transferee is a corporation and its directors are legally entitled to administer its affairs, a certified

copy of their resolution authorizing the agreement to be made, and

(iv) where the transferee is a corporation and its directors are not legally entitled to administer its affairs, a certified copy of the document by which the person legally entitled to administer its affairs authorized the agreement to be made; or

(d) an agreement amending the agreement has been filed in accordance with subsection (13) and this subsection, except where subsection (16) applies to the original agreement.

#### Non-arm's length parties

(16) Where a taxpayer does not deal at arm's length with another taxpayer as a result of a transaction, event or arrangement, or a series of transactions or events, the principal purpose of which can reasonably be considered to have been to enable the taxpayers to enter into an agreement referred to in subsection (13), for the purpose of paragraph (13)(e) the least of the amounts determined under paragraphs (13)(a) to (c) in respect of the agreement is deemed to be nil.

#### Assessment

(17) Notwithstanding subsections 152(4) and (5), such assessment of the tax, interest and penalties payable by any taxpayer in respect of any taxation year that began before the day an agreement or amended agreement is filed under subsection (13) or (20) shall be made as is necessary to take into account the agreement or the amended agreement.

#### Reduction of qualified expenditures

(18) Where on or before the filing-due date for a taxation year of a person or partnership (referred to in this subsection as the "taxpayer") the taxpayer has received, is entitled to receive or can reasonably be expected to receive a particular amount that is government assistance, non-government assistance or a contract payment that can reasonably be considered to be in respect of scientific research and experimental development, the amount by which the particular amount exceeds all amounts applied for preceding taxation years under this subsection or subsection (19) or (20) in respect of the particular amount shall be applied to reduce the taxpayer's qualified expenditures otherwise incurred in the year that can reasonably be considered to be in respect of the scientific research and experimental development.

Reduction of  
qualified  
expenditures

(19) Where on or before the filing-due date for a taxation year of a person or partnership (referred to in this subsection as the "recipient") the recipient has received, is entitled to receive or can reasonably be expected to receive a particular amount that is government assistance, non-government assistance or a contract payment that can reasonably be considered to be in respect of scientific research and experimental development and the particular amount exceeds the total of

(a) all amounts applied for preceding taxation years under this subsection or subsection (18) or (20) in respect of the particular amount,

(b) the total of all amounts each of which would be a qualified expenditure that is incurred in the year by the recipient and that can reasonably be considered to be in respect of the scientific research and experimental development if subsection (18) did not apply to the particular amount, and

(c) the total of all amounts each of which would, but for the application of this subsection to the particular amount, be a qualified expenditure

(i) that was incurred by a person or partnership in a taxation year of the person or partnership that ended in the recipient's taxation year, and

(ii) that can reasonably be considered to be in respect of the scientific research and experimental development to the extent that it was performed by the person or partnership at a time when the person or partnership was not dealing at arm's length with the recipient,

the particular amount shall be applied to reduce each qualified expenditure otherwise determined that is referred to in paragraph (c).

Agreement to  
allocate

(20) Where

(a) on or before the filing-due date for a taxation year of a person or partnership (referred to in this subsection and subsection (22) as the "taxpayer") the taxpayer has received, is entitled to receive or can reasonably be expected to receive a

particular amount that is government assistance, non-government assistance or a contract payment that can reasonably be considered to be in respect of scientific research and experimental development,

(b) subsection (19) does not apply to the particular amount in respect of the year, and

(c) the taxpayer and a person or partnership (referred to in this subsection and subsection (22) as the "transferee") with which the taxpayer does not deal at arm's length file an agreement or amended agreement with the Minister,

the lesser of

(d) the amount specified in the agreement, and

(e) the total of all amounts each of which would, but for the agreement, be a qualified expenditure

(i) that was incurred by the transferee in a particular taxation year of the transferee that ended in the taxpayer's taxation year, and

(ii) that can reasonably be considered to be in respect of the scientific research and experimental development to the extent that it was performed by the transferee at a time when the transferee was not dealing at arm's length with the taxpayer

shall be applied to reduce the qualified expenditures otherwise determined that are described in paragraph (e).

Failure to  
allocate

(21) Where on or before the filing-due date for a taxation year of a person or partnership (referred to in this subsection as the "recipient") the recipient has received, is entitled to receive or can reasonably be expected to receive a particular amount that is government assistance, non-government assistance or a contract payment that can reasonably be considered to be in respect of scientific research and experimental development and subsection (19) does not apply to the particular amount in respect of the year, the lesser of

(a) the total of all amounts each of which is a qualified expenditure

(i) that was incurred by a particular person or partnership in a taxation year of the particular person or partnership that

ended in the recipient's taxation year, and

(ii) that can reasonably be considered to be in respect of the scientific research and experimental development to the extent that it was performed by the particular person or partnership at a time when the particular person or partnership was not dealing at arm's length with the recipient, and

(b) the amount, if any, by which the particular amount exceeds the total of amounts applied for the year and preceding taxation years under subsection (18), (19) or (20) in respect of the particular amount

is deemed for the purposes of this section to be an amount of government assistance received at the end of the particular year by the particular person or partnership in respect of the scientific research and experimental development.

#### Invalid agreements

(22) An agreement or amended agreement referred to in subsection (20) between a taxpayer and a transferee is deemed not to have been filed with the Minister where

(a) it is not in prescribed form;

(b) it is not filed

(i) on or before the taxpayer's filing-due date for the particular taxation year to which the agreement relates,

(ii) in the period within which the taxpayer may serve a notice of objection to an assessment of tax payable under this Part for the particular year, or

(iii) in the period within which the transferee may serve a notice of objection to an assessment of tax payable under this Part for its first taxation year that ends at or after the end of the taxpayer's particular year;

(c) it is not accompanied by,

(i) where the taxpayer is a corporation and its directors are legally entitled to administer its affairs, a certified copy of their resolution authorizing the agreement to be made,

(ii) where the taxpayer is a corporation and its directors are not legally entitled to administer its affairs, a certified copy of the document by which the person legally entitled to



administer its affairs authorized the agreement to be made,

(iii) where the transferee is a corporation and its directors are legally entitled to administer its affairs, a certified copy of their resolution authorizing the agreement to be made, and

(iv) where the transferee is a corporation and its directors are not legally entitled to administer its affairs, a certified copy of the document by which the person legally entitled to administer its affairs authorized the agreement to be made; or

(d) an agreement amending the agreement has been filed in accordance with subsection (20) and this subsection.

Partnership's  
taxation year

(23) For the purposes of subsections (18) to (22), the taxation year of a partnership is deemed to be its fiscal period and its filing-due date for a taxation year is deemed to be the day that would be its filing-due date for the year if it were a corporation.

Exclusion from  
qualified  
expenditure

(24) Where

(a) a person or partnership (referred to in this subsection as the "first person") does not deal at arm's length with another person or partnership (referred to in this subsection as the "second person"),

(b) there is an arrangement under which an amount is paid or payable by the first person to a person or partnership with which the first person deals at arm's length and an amount is received or receivable by the second person from a person or partnership with which the second person deals at arm's length, and

(c) one of the main purposes of the arrangement can reasonably be considered to be to cause the amount paid or payable by the first person to be a qualified expenditure,

the amount paid or payable by the first person is deemed not to be a qualified expenditure.

Deemed contract  
payment

(25) Where

(a) a person or partnership (referred to in this subsection as the "first person") deals at arm's length with another person or partnership (referred to in this subsection as the "second person"),

(b) there is an arrangement under which an amount is paid or payable by the first person to a person or partnership (other than the second person) and a particular amount is received or receivable in respect of scientific research and experimental development by the second person from a person or partnership that is not a taxable supplier in respect of the particular amount, and

(c) one of the main purposes of the arrangement can reasonably be considered to be to cause the amount received or receivable by the second person not to be a contract payment,

the amount received or receivable by the second person is deemed to be a contract payment in respect of scientific research and experimental development.

Unpaid amounts

(26) For the purposes of subsections (5) to (25) and section 127.1, a taxpayer's expenditure described in paragraph 37(1)(a) that is unpaid on the day that is 180 days after the end of the taxation year in which the expenditure is otherwise incurred is deemed

(a) not to have been incurred in the year; and

(b) to be incurred at the time it is paid.

**(26) Subsections (1) to (3) and (5) to (23), subsections 127(11.4) and (11.5) of the Act, as enacted by subsection (24), and subsections 127(13) to (25) of the Act, as enacted by subsection (25), apply to taxation years that begin after 1995.**

**(27) Subsection (4) applies to taxation years that end after December 2, 1992 and begin before 1996.**

**(28) Subsections 127(11.6) to (11.8) of the Act, as enacted by subsection (24), apply to expenditures incurred in taxation years that begin after 1995.**

**(29) Subsection 127(26) of the Act, as enacted by subsection (25), applies to amounts that are incurred at any time, except that it does not apply to amounts that are paid on or before the day**

that is 90 days after the day this Act is assented to.

**31. (1) Paragraph (f) of the definition "refundable investment tax credit" in subsection 127.1(2) of the Act is replaced by the following:**

(f) the total of

(i) the portion of the amount required by subsection 127(10.1) to be added in computing the taxpayer's investment tax credit at the end of the year that is in respect of qualified expenditures (other than expenditures of a capital nature) incurred by the taxpayer in the year, and

(ii) all amounts determined under paragraph (a.1) of the definition "investment tax credit" in subsection 127(9) in respect of expenditures for which an amount is included in subparagraph (i)

**(2) Paragraph 127.1(2.01)(a) of the Act is replaced by the following:**

(a) the total of

(i) the portion of the amount required by subsection 127(10.1) to be added in computing the taxpayer's investment tax credit at the end of the year that is in respect of qualified expenditures (other than expenditures of a current nature) incurred by the taxpayer in the year, and

(ii) all amounts determined under paragraph (a.1) of the definition "investment tax credit" in subsection 127(9) in respect of expenditures for which an amount is included in subparagraph (i)

**(3) Paragraph 127.1(2.01)(c) of the Act is replaced by the following:**

(c) the total of

(i) the portion of the amount required by subsection 127(10.1) to be added in computing the taxpayer's investment tax credit at the end of the year that is in respect of qualified expenditures (other than expenditures of a capital nature) incurred by the taxpayer in the year, and

(ii) all amounts determined under paragraph (a.1) of the definition "investment tax credit" in subsection 127(9) in respect of expenditures for which an amount is included in

subparagraph (i)

**(4) Subsections (1) to (3) apply to taxation years that begin after 1995.**

**32. (1) Subparagraph 129(1)(a)(i) of the Act is replaced by the following:**

(i) 1/3 of all taxable dividends paid by the corporation on shares of its capital stock in the year and at a time when it was a private corporation, and

**(2) Subsections 129(3) to (5) of the Act are replaced by the following:**

Definition of  
"refundable  
dividend tax on  
hand"

(3) In this section, "refundable dividend tax on hand" of a corporation at the end of a taxation year means the amount, if any, by which the total of

(a) where the corporation was a Canadian-controlled private corporation throughout the year, the least of

(i) the amount determined by the formula

$$A - B$$

where

A is 26 2/3% of the corporation's aggregate investment income for the year, and

B is the amount, if any, by which

(I) the amount deducted under subsection 126(1) from the tax for the year otherwise payable by it under this Part

exceeds

(II) 9 1/3% of its foreign investment income for the year,

(ii) 26 2/3% of the amount, if any, by which the corporation's taxable income for the year exceeds the total of

(A) the least of the amounts determined under paragraphs 125(1)(a) to (c) in respect of the corporation for the year,

(B) 25/9 of the total of amounts deducted under subsection 126(1) from its tax for the year otherwise payable under this Part, and

(C) 10/4 of the total of amounts deducted under subsection 126(2) from its tax for the year otherwise payable under this Part, and

(iii) the corporation's tax for the year payable under this Part determined without reference to section 123.2,

(b) the total of the taxes under Part IV payable by the corporation for the year, and

(c) where the corporation was a private corporation at the end of its preceding taxation year, the corporation's refundable dividend tax on hand at the end of that preceding year

exceeds

(d) the corporation's dividend refund for its preceding taxation year.

#### Definitions

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

"aggregate  
investment  
income"  
« *revenu de  
placement total*  
»

"aggregate investment income" of a corporation for a taxation year means the amount, if any, by which the total of all amounts, each of which is

(a) the amount, if any, by which

(i) the eligible portion of the corporation's taxable capital gains for the year

exceeds the total of

(ii) the eligible portion of its allowable capital losses for the year, and

(iii) the amount, if any, deducted under paragraph 111(1)(b) in computing its taxable income for the year, or

(b) the corporation's income for the year from a source that is a property, other than

(i) exempt income,

(ii) an amount included under subsection 12(10.2) in computing the corporation's income for the year,

(iii) the portion of any dividend that was deductible in computing the corporation's taxable income for the year, and

(iv) income that, but for paragraph 108(5)(a), would not be income from a property,

exceeds the total of all amounts, each of which is the corporation's loss for the year from a source that is a property.

"eligible  
portion"  
« *fraction  
admissible* »

"eligible portion" of a corporation's taxable capital gains or allowable capital losses for a taxation year is the total of all amounts each of which is the portion of a taxable capital gain or an allowable capital loss, as the case may be, of the corporation for the year from a disposition of a property that, except where the property was a designated property (within the meaning assigned by subsection 89(1)), cannot reasonably be regarded as having accrued while the property, or a property for which it was substituted, was property of a corporation other than a Canadian-controlled private corporation, an investment corporation, a mortgage investment corporation or a mutual fund corporation.

"foreign  
investment  
income"  
« *revenu de  
placement  
étranger* »

"foreign investment income" of a corporation for a taxation year is the amount that would be its aggregate investment income for the year if

(a) every amount of its income, loss, capital gain or capital loss for the year that can reasonably be regarded as being from a source in Canada were nil,

(b) no amount were deducted under paragraph 111(1)(b) in

computing its taxable income for the year, and

(c) this Act were read without reference to paragraph (a) of the definition "income" or "loss" in this subsection.

"income" or  
"loss"  
« *perte* »,  
« *revenu* »

"income" or "loss" of a corporation for a taxation year from a source that is a property

(a) includes the income or loss from a specified investment business carried on by it in Canada other than income or loss from a source outside Canada, but

(b) does not include the income or loss from any property

(i) that is incident to or pertains to an active business carried on by it, or

(ii) that is used or held principally for the purpose of gaining or producing income from an active business carried on by it.

**(3) Subsections (1) and (2) apply to taxation years that end after June 1995 except that, in their application to such taxation years that began before July 1995,**

**(a) subparagraph 129(1)(a)(i) of the Act, as enacted by subsection (1), shall be read as follows:**

(i) an amount in respect of taxable dividends paid by the corporation on shares of its capital stock in the year and at a time when it was a private corporation equal to the total of

(A) 1/4 of all such dividends paid before July 1995, and

(B) 1/3 of all such dividends paid after June 1995,

**and**

**(b) in computing the amount determined under each of subparagraphs 129(3)(a)(i) and (ii) of the Act, as enacted by subsection (2), there shall be deducted an amount equal to that proportion of 1/4 of the amount otherwise determined under the subparagraph that the number of days in the year that are before July 1995 is of the number of days in the year.**

**33. (1) Paragraph 131(5)(a) of the Act is replaced by the following:**

(a) its refundable dividend tax on hand at the end of the year (within the meaning assigned by subsection 129(3)) shall be determined without reference to paragraph (a) of that subsection; and

**(2) Paragraph 131(11)(b) of the Act is replaced by the following:**

(b) the definition "aggregate investment income" in subsection 129(4) shall be read without reference to paragraph (a) of that definition in its application to taxation years that end after that time;

**(3) Subsections (1) and (2) apply to taxation years that end after June 1995.**

**34. (1) The definition "RRSP dollar limit" in subsection 146(1) of the Act is replaced by the following:**

"RRSP dollar  
limit"  
« *plafond REER*  
»

"RRSP dollar limit" for a calendar year means

(a) for years other than 1996, the money purchase limit for the preceding year, and

(b) for 1996, \$13,500;

**(2) Subsection (1) applies after 1995.**

**35. (1) The portion of subsection 146.01(3) of the Act before paragraph (a) is replaced by the following:**

Repayment of  
eligible amount

(3) An individual may designate a single amount for a taxation year in prescribed form filed with the individual's return of income required to be filed for the year or, if a return of income for the year is not required to be filed, filed with the Minister on or before the individual's filing-due date for the year, where the amount does not exceed the lesser of

**(2) Subsection (1) applies to the 1995 and subsequent taxation years.**



**36. (1) The definition "money purchase limit" in subsection 147.1(1) of the Act is amended by striking out the word "and" at the end of paragraph (f) and by replacing paragraph (g) with the following:**

(g) for 1996, \$13,500,

(h) for 1997, \$14,500,

(i) for 1998, \$15,500, and

(j) for each year after 1998, the greater of

(i) the product of

(A) \$15,500, and

(B) the quotient obtained when the average wage for the year is divided by the average wage for 1998,

rounded to the nearest multiple of \$10, or, if that product is equidistant from 2 such consecutive multiples, to the higher thereof, and

(ii) the money purchase limit for the preceding year;

**(2) Subsection (1) applies after 1995.**

**37. (1) The portion of subparagraph 149(1)(j)(ii) of the French version of the Act before clause (A) is replaced by the following:**

(ii) elle a dépensé pour un total, au minimum, de 90 % de l'excédent éventuel de son revenu brut pour la période sur le total des montants qu'elle a payés au cours de la période par l'effet du paragraphe (7.1), des sommes au Canada dont chacune constitue :

**(2) Clause 149(1)(j)(ii)(A) of the Act is replaced by the following:**

(A) an expenditure on scientific research and experimental development (within the meaning that would be assigned by paragraph 37(8)(a) if subsection 37(8) were read without reference to paragraph 37(8)(d)) directly undertaken by or on behalf of the corporation, or

**(3) The portion of subparagraph 149(1)(j)(ii) of the English version of the Act after clause (B) is replaced by the following:**

the total of which is not less than 90% of the amount, if any,

by which the corporation's gross revenue for the period exceeds the total of all amounts paid in the period by the corporation because of subsection (7.1);

**(4) Section 149 of the Act is amended by adding the following after subsection (6):**

Time for filing

(7) A corporation the taxable income of which for a taxation year is exempt from tax under this Part because of paragraph (1)(j) shall file with the Minister a prescribed form containing prescribed information on or before its filing-due date for the year.

Penalty for  
failure to file  
on time

(7.1) Where a corporation fails to file the prescribed form as required by subsection (7) for a taxation year, it is liable to a penalty equal to the amount determined by the formula

$$A \times B$$

where

A is the greater of

(a) \$500, and

(b) 2% of its taxable income for the year; and

B is the lesser of

(a) 12, and

(b) the number of months in whole or in part that are in the period that begins on the day on or before which the prescribed form is required to be filed and ends on the day it is filed.

**(5) Paragraph 149(8)(b) of the Act is replaced by the following:**

(b) there shall be included in computing a corporation's income and in determining its gross revenue the amount of all gifts received by the corporation and all amounts contributed to the corporation to be used for scientific research and experimental development.

**(6) Subsection 149(9) of the Act is replaced by the following:**

Rules for  
determining  
gross revenue

(9) In determining the gross revenue of a corporation for the purpose of determining whether it is described by paragraph (1)(j) for a taxation year,

(a) there may be deducted an amount not exceeding its gross revenue for the year computed without including or deducting any amount under this subsection; and

(b) there shall be included any amount that has been deducted under this subsection for the preceding taxation year.

**(7) Subsections (1), (3), (5) and (6) apply to taxation years that begin after June 1995.**

**(8) Subsection (2) applies to taxation years that end after November 1991.**

**(9) Subsection (4) applies to taxation years that end after February 27, 1995, except that a form referred to in subsection 149(7) of the Act, as enacted by subsection (4), that is filed with the Minister of National Revenue on or before the day that is 90 days after the day this Act is assented to is deemed to have been filed on a timely basis.**

**38. (1) Paragraph 150(1)(b) of the Act is replaced by the following:**

Deceased  
individuals

(b) in the case of an individual who dies after October of the year and before the day that would be the individual's filing due date for the year if the individual had not died, by the individual's legal representatives on or before the day that is the later of the day on or before which the return would otherwise be required to be filed and the day that is 6 months after the day of death;

**(2) Paragraph 150(1)(d) of the Act is replaced by the following:**

Individuals

(d) in the case of any other person, on or before

(i) the following April 30 by that person or, if the person is unable for any reason to file the return, by the person's

guardian, committee or other legal representative (in this paragraph referred to as the person's "guardian"),

(ii) the following June 15 by that person or, if the person is unable for any reason to file the return, by the person's guardian where the person is

(A) an individual who carried on a business in the year, unless the expenditures made in the course of carrying on the business were primarily the cost or capital cost of tax shelters (within the meaning assigned by subsection 237.1(1)), or

(B) at any time in the year a cohabiting spouse (within the meaning assigned by section 122.6) of an individual to whom clause (A) applies, or

(iii) where at any time in the year the person is a cohabiting spouse (within the meaning assigned by section 122.6) of an individual to whom paragraph (b) applies for the year, on or before the day that is the later of the day on or before which the person's return would otherwise be required to be filed and the day that is 6 months after the day of the individual's death; or

**(3) Subsections (1) and (2) apply to the 1995 and subsequent taxation years.**

**39. (1) Paragraph 152(1)(b) of the Act is replaced by the following:**

(b) the amount of tax, if any, deemed by subsection 120(2), 120.1(4), 122.5(3), 125.4(3), 127.1(1), 127.41(3) or 210.2(3) or (4) to be paid on account of the taxpayer's tax payable under this Part for the year or deemed by subsection 119(2) to be an overpayment.

**(2) Subsection (1) applies to the 1995 and subsequent taxation years.**

**40. Subsections 153(1.3) and (1.4) of the Act are repealed.**

**40.1 (1) The description of A in the definition "net tax owing" in subsection 156.1(1) of the Act is replaced by the following:**

A is the total of the taxes payable under this Part and Parts I.1 and I.2 by the individual for the year,

**(2) The description of C in the definition "net tax owing" in subsection 156.1(1) of the Act is replaced by the following :**

C is the total of the taxes deducted or withheld under section 153 and Part I.2 on behalf of the individual for the year,

**(3) Subsections (1) and (2) apply to the 1996 and subsequent taxation years, except that, in its application to the 1996 taxation year, the description of A in the definition "net tax owing" in subsection 156.1(1) of the Act, as enacted by subsection (1), shall be read as follows:**

A is the total of

(i) the taxes payable under this Part and Part I.1 by the individual for the year, and

(ii) half the tax payable under Part I.2 by the individual for the year,

**41. (1) Paragraph 157(3)(e) of the Act is replaced by the following:**

(e) 1/12 of the total of all amounts each of which is an amount deemed by subsection 125.4(3) or 127.41(3) to have been paid on account of the corporation's tax payable under this Part for the year.

**(2) Subsection (1) applies to the 1995 and subsequent taxation years.**

**42. (1) Paragraph 161(2.2)(d) of the Act is replaced by the following:**

(d) the amount of interest that would be payable under subsection 164(3) to the taxpayer in respect of the period on the amount that would be refunded to the taxpayer in respect of the year or applied to another liability if

(i) no tax were payable by the taxpayer for the year,

(ii) no amount had been remitted under section 153 to the Receiver General on account of the taxpayer's tax for the year,

(iii) the rate of interest prescribed for the purpose of subsection (1) were prescribed for the purpose of subsection 164(3), and

(iv) the latest of the days described in paragraphs 164(3)(a), (b) and (c) were the first day of the year.

**(2) Subsection (1) applies to interest that is calculated in**

respect of periods after June 1995.

**43. (1) Subsection 163(2) of the Act is amended by striking out the word "and" at the end of paragraph (d), by adding the word "and" at the end of paragraph (e) and by adding the following after paragraph (e):**

(f) the amount, if any, by which

(i) the amount that would be deemed by subsection 125.4(3) to have been paid for the year by the person if that amount were calculated by reference to the information provided in the return filed for the year pursuant to that subsection

exceeds

(ii) the amount that is deemed by that subsection to be paid for the year by the person.

**(2) Subsection (1) applies to the 1995 and subsequent taxation years.**

**44. (1) Paragraph 164(3)(a) of the Act is replaced by the following:**

(a) where the taxpayer is an individual, the day that is 45 days after the individual's balance-due day for the year,

**(2) Paragraph 164(3)(c) of the Act is replaced by the following:**

(c) where the taxpayer is

(i) a corporation, the day on which its return of income for the year was filed under section 150, unless the return was filed on or before the corporation's filing-due date for the year, and

(ii) an individual, the day that is 45 days after the day on which the individual's return of income for the year was filed under section 150,

**(3) Subsections (1) and (2) apply to the 1995 and subsequent taxation years.**

**45. (1) Subparagraph 165(1)(a)(i) of the Act is replaced by the following:**

(i) the day that is one year after the taxpayer's filing-due date for the year, and

(2) Subsection (1) applies to the 1995 and subsequent taxation years.

46. (1) Part I.2 of the Act is replaced by the following:

PART I.2

TAX ON OLD AGE SECURITY BENEFITS

Definitions

180.2 (1) The definitions in this subsection apply in this Part.

"adjusted  
income"  
« *revenu  
modifié* »

"adjusted income" of an individual for a taxation year means the amount that would be the individual's income under Part I for the year if no amount were deductible under paragraph 60(w) nor included in respect of a gain from a disposition of property to which section 79 applies.

"base taxation  
year"  
« *année de base*  
»

"base taxation year", in relation to a month, means

(a) where the month is any of the first 6 months of a calendar year, the taxation year that ended on December 31 of the second preceding calendar year, and

(b) where the month is any of the last 6 months of a calendar year, the taxation year that ended on December 31 of the preceding calendar year.

"return of  
income"  
« *déclaration  
de revenu* »

"return of income" in respect of an individual for a taxation year means

(a) where the individual was resident in Canada throughout the year, the individual's return of income (other than a return of

income filed under subsection 70(2) or 104(23), paragraph 128(2)(e) or subsection 150(4)) that is filed or required to be filed under Part I for the year, and

(b) in any other case, a prescribed form containing prescribed information.

#### Tax payable

(2) Every individual shall pay a tax under this Part for each taxation year equal to the amount determined by the formula

$$A(1 - B)$$

where

A is the lesser of

(a) the amount, if any, by which

(i) the total of all amounts each of which is the amount of any pension, supplement or spouse's allowance under the *Old Age Security Act* included in computing the individual's income under Part I for the year

exceeds

(ii) the amount of any deduction allowed under subparagraph 60(n)(i) in computing the individual's income under Part I for the year, and

(b) 15% of the amount, if any, by which the individual's adjusted income for the year exceeds \$50,000; and

B is the rate of tax payable by the individual under Part XIII on amounts described in paragraph (a) of the description of A.

#### Withholding

(3) Where at any time Her Majesty pays an amount described in paragraph (a) of the description of A in subsection (2) in respect of a month to an individual, there shall be deducted or withheld from that amount on account of the individual's tax payable under this Part for the year the amount determined under subsection (4) in respect of that amount.

Determination  
of amount to  
be withheld



(4) The amount determined in respect of a particular amount described in subsection (3) is

(a) where the individual has filed a return of income for the base taxation year in relation to the month in which the particular amount is paid, the lesser of

(i) the amount by which the particular amount exceeds the amount of tax payable under Part XIII by the individual on the particular amount, and

(ii) the amount determined by the formula

$$(0.0125A - \$625)(1 - B)$$

where

A is the individual's adjusted income for the base taxation year, and

B is the rate of tax payable under Part XIII by the individual on the particular amount;

(b) where the individual has not filed a return of income for the base taxation year in relation to the month and

(i) the Minister has demanded under subsection 150(2) that the individual file the return, or

(ii) the individual was non-resident at any time in the base taxation year,

the amount by which the particular amount exceeds the amount of tax payable under Part XIII by the individual on the particular amount; and

(c) in any other case, nil.

#### Return

(5) Every individual liable to pay tax under this Part for a taxation year shall

(a) file with the Minister, without notice or demand therefor,

(i) where the individual is resident in Canada throughout the taxation year, a return for the year under this Part in prescribed form and containing prescribed information on or before the individual's filing-due date for the year, and

(ii) in any other case, a return of income for the year on or before the individual's balance-due day for the year; and

(b) pay the individual's tax payable under this Part for the year on or before the individual's balance-due day for the year.

Provisions  
applicable to  
this Part

(6) Subsection 150(3), sections 150.1, 151 and 152, subsections 153(1.1), (1.2) and (3), sections 155 to 156.1 and 158 to 167 and Division J of Part I apply to this Part with any modifications that the circumstances require.

(2) Subsection 180.2(1) of the Act, as enacted by subsection (1), applies after June 1996.

(3) Subsections 180.2(2), (5) and (6) of the Act, as enacted by subsection (1), apply to the 1996 and subsequent taxation years.

(4) Subsections 180.2(3) and (4) of the Act, as enacted by subsection (1), apply to amounts paid after June 1996.

47. (1) The portion of subsection 181.1(1) of the Act before paragraph (a) is replaced by the following:

Tax payable

181.1 (1) Every corporation shall pay a tax under this Part for each taxation year equal to 0.225% of the amount, if any, by which

(2) Subsection (1) applies to taxation years that end after February 27, 1995, except that, in its application to taxation years that began before February 28, 1995, there shall be deducted from the tax otherwise payable under subsection 181.1(1) of the Act, as amended by subsection (1), an amount equal to that proportion of 1/9 of the tax otherwise payable under that subsection of the Act that the number of days in the year that were before February 28, 1995 is of the number of days in the year.

(3) For the purpose of applying subsection 125(5.1) of the Act, the amount that would, but for subsections 181.1(2) and (4) of the Act, be a corporation's tax payable under Part I.3 of the Act for a taxation year that began before February 28, 1995 shall be determined without reference to the amendment made by subsection (1).

48. (1) Subsections 186(1) and (1.1) of the Act are replaced by the following:

Tax on  
assessable  
dividends

**186.** (1) Every corporation (in this section referred to as the "particular corporation") that is at any time in a taxation year a private corporation or a subject corporation shall, on or before the last day of the third month after the end of the year, pay a tax under this Part for the year equal to the amount, if any, by which the total of

(a)  $\frac{1}{3}$  of all assessable dividends received by the particular corporation in the year from corporations other than payer corporations connected with it, and

(b) all amounts, each of which is an amount in respect of an assessable dividend received by the particular corporation in the year from a private corporation or a subject corporation that was a payer corporation connected with the particular corporation, equal to that proportion of the payer corporation's dividend refund (within the meaning assigned by paragraph 129(1)(a)) for its taxation year in which it paid the dividend that

(i) the amount of the dividend received by the particular corporation

is of

(ii) the total of all taxable dividends paid by the payer corporation in its taxation year in which it paid the dividend and at a time when it was a private corporation or a subject corporation

exceeds  $\frac{1}{3}$  of the total of

(c) such part of the particular corporation's non-capital loss and farm loss for the year as it claims, and

(d) such part of the particular corporation's

(i) non-capital loss for any of its 7 taxation years immediately preceding or 3 taxation years immediately following the year, and

(ii) farm loss for any of its 10 taxation years immediately preceding or 3 taxation years immediately following the year

as it claims, not exceeding the portion thereof that would have been deductible under section 111 in computing its taxable income for the year if subparagraph 111(3)(a)(ii) were read without

reference to the words "the particular taxation year and" and if the corporation had sufficient income for the year.

Reduction where  
Part IV.1 tax  
payable

(1.1) Notwithstanding subsection (1), where an assessable dividend was received by a corporation in a taxation year and was included in an amount in respect of which tax under Part IV.1 was payable by the corporation for the year, the tax otherwise payable under this Part by the corporation for the year shall be reduced

(a) where the assessable dividend is described in paragraph (1)(a), by 10% of the assessable dividend, and

(b) where the assessable dividend is described in paragraph (1)(b), by 30% of the amount determined under that paragraph in respect of the assessable dividend.

**(2) Section 186 of the Act is amended by adding the following after subsection (2):**

Definitions

(3) The definitions in this subsection apply in this Part.

"assessable  
dividend"  
« *dividende  
déterminé* »

"assessable dividend" means an amount received by a corporation at a time when it is a private corporation or a subject corporation as, on account of, in lieu of payment of or in satisfaction of, a taxable dividend from a corporation, to the extent of the amount in respect of the dividend that is deductible under section 112, paragraph 113(1)(a), (b) or (d) or subsection 113(2) in computing the recipient corporation's taxable income for the year.

"subject  
corporation"  
« *société  
assujettie* »

"subject corporation" means a corporation (other than a private corporation) resident in Canada and controlled, whether because of a beneficial interest in one or more trusts or otherwise, by or for the benefit of an individual (other than a trust) or a

related group of individuals (other than trusts).

**(3) Subsection 186(5) of the Act is replaced by the following:**

Deemed private  
corporation

(5) A corporation that is at any time in a taxation year a subject corporation shall, for the purposes of paragraph 87(2)(aa) and section 129, be deemed to be a private corporation at that time, except that its refundable dividend tax on hand (within the meaning assigned by subsection 129(3)) at the end of the year shall be determined without reference to paragraph 129(3)(a).

**(4) Subsections (1) to (3) apply to taxation years that end after June 1995 except that, in applying subsection (1) to any such taxation year that begins before July 1995,**

(a) in the application of subsection 186(1) of the Act, as enacted by subsection (1), to amounts described in paragraphs 186(1)(a) and (b) of the Act, as enacted by subsection (1), that were received by the corporation in the year and before July 1995, the references in that subsection of the Act, as enacted by subsection (1), to "1/3" shall be read as "1/4";

(b) amounts deducted by the corporation for the year under paragraphs 186(1)(c) and (d) of the Act, as enacted by subsection (1),

(i) are deemed to have been deducted in respect of amounts described in paragraphs 186(1)(a) and (b) of the Act, as enacted by subsection (1), that were received by the corporation in the year and after June 1995, and

(ii) to the extent that the amounts so deducted exceed the amounts referred to in subparagraph (i), are deemed to have been deducted in respect of amounts described in paragraphs 186(1)(a) and (b) of the Act, as enacted by subsection (1), that were received by the corporation in the year and before July 1995; and

(c) in the application of subsection 186(1.1) of the Act, as enacted by subsection (1), to amounts described in paragraph 186(1.1)(b) of the Act, as enacted by subsection (1), that were received by the corporation in the year and before July 1, 1995, the reference in that paragraph, as enacted by subsection (1), to "30%" shall be read as "40%".

**49. (1) Section 190.1 of the Act is amended by adding the following after subsection (1.1):**

Additional tax  
payable by  
deposit-taking  
institutions

(1.2) Every corporation (other than a life insurance corporation) that is a financial institution at any time in a taxation year shall pay a tax under this Part for the year, in addition to any tax payable under subsection (1), equal to the amount determined by the formula

$$0.0015 \times (A - B) \times \frac{C}{365}$$

where

- A is the corporation's taxable capital employed in Canada for the year;
- B is its enhanced capital deduction for the year; and
- C is the number of days in the year that are after February 27, 1995 and before November 1996.

**(2) Paragraph 190.1(3)(c) of the Act is replaced by the following:**

(c) the amount that would, but for subsection (1.2) and this subsection, be its tax payable under this Part for the year

**(3) Subsections (1) and (2) apply to taxation years that end after February 27, 1995.**

**(4) No interest is payable under subsection 161(2) of the Act in respect of any amount that became payable before July 1995 because of subsection 190.1(1.2) of the Act, as enacted by subsection (1).**

**50. (1) The Act is amended by adding the following after section 190.16:**

Enhanced  
capital  
deduction

**190.17 (1)** For the purpose of subsection 190.1(1.2), the enhanced capital deduction of a corporation for a taxation year is \$400,000,000, unless the corporation was related to a financial institution (other than a life insurance corporation) at the end of the year, in which case, subject to subsection (4), the corporation's enhanced capital deduction for the year is nil.

Related  
financial  
institution

(2) A corporation that is a financial institution at any time in a taxation year and that is related to another financial institution (other than a life insurance corporation) at the end of the year may file with the Minister an agreement in prescribed form on behalf of the related group of which the corporation is a member under which an amount that does not exceed \$400,000,000 is allocated among the members of the group for the year.

Minister's  
powers

(3) The Minister may request a corporation that is a financial institution at any time in a taxation year and that is related to any other financial institution (other than a life insurance corporation) at the end of the year to file with the Minister an agreement referred to in subsection (2) and, if the corporation does not file such an agreement within 30 days after receiving the request, the Minister may allocate an amount that does not exceed \$400,000,000 among the members of the related group of which the corporation is a member for the year.

Least amount  
allocated

(4) The least amount allocated for a taxation year to a member of a related group under an agreement described in subsection (2) or by the Minister under subsection (3) is the enhanced capital deduction for the taxation year of the member, but, if no such allocation is made, the enhanced capital deduction of the member for the year is nil.

Provisions  
applicable to  
Part

(5) Subsections 190.15(5) and (6) apply to this section with such modifications as the circumstances require.

**(2) Subsection (1) applies to taxation years that end after February 27, 1995.**

**51. (1) Paragraph 204.2(1.1)(b) of the Act is replaced by the following:**

(b) the amount determined by the formula

$$A + B + C + D + E$$

where

A is the individual's unused RRSP deduction room at the end of the preceding taxation year,

B is the amount, if any, by which

(i) the lesser of the RRSP dollar limit for the year and 18% of the individual's earned income (as defined in subsection 146(1)) for the preceding taxation year

exceeds the total of all amounts each of which is

(ii) the individual's pension adjustment for the preceding taxation year in respect of an employer, or

(iii) a prescribed amount in respect of the individual for the year,

C is, where the individual attained 18 years of age in a preceding taxation year, \$2,000, and in any other case, nil,

D is the group RRSP amount in respect of the individual at that time, and

E is, where the individual attained 18 years of age before 1995, the individual's transitional amount at that time, and in any other case, nil.

**(2) The portion of subsection 204.2(1.2) of the Act before the formula is replaced by the following:**

Undeducted RRSP  
premiums

(1.2) For the purposes of subsection (1.1) and the description of C in paragraph (1.3)(a), the amount of undeducted RRSP premiums of an individual at any time in a taxation year is the amount determined by the formula

**(3) Subsection 204.2(1.3) of the Act is replaced by the following:**

Group RRSP  
amount

(1.3) For the purposes of this section, the group RRSP amount in



respect of an individual at any time in a taxation year is the lesser of

(a) the lesser of the value of A and the amount determined by the formula

$$A - (B - C)$$

where

A is the lesser of

(i) the total of all amounts each of which is a qualifying group RRSP premium paid by the individual, to the extent that the premium is included in determining the value of I in subsection (1.2) in respect of the individual at that time, and

(ii) the RRSP dollar limit for the following taxation year,

B is the amount that would be determined under paragraph (1.1)(b) in respect of the individual at that time if the values of C, D and E in that paragraph were nil, and

C is

(i) where the year is the 1996 taxation year, the amount, if any, by which the amount of the individual's undeducted RRSP premiums at the beginning of the year exceeds the individual's cumulative excess amount in respect of registered retirement savings plans at the end of the 1995 taxation year, and

(ii) in any other case, the group RRSP amount in respect of the individual at the end of the preceding taxation year, and

(b) the amount that would be the individual's cumulative excess amount in respect of registered retirement savings plans at that time if the value of D in paragraph (1.1)(b) were nil.

Qualifying  
group RRSP  
premium

(1.31) For the purpose of the description of A in paragraph (1.3)(a), a qualifying group RRSP premium paid by an individual is a premium paid under a registered retirement savings plan where

(a) the plan is part of a qualifying arrangement,

(b) the premium is an amount to which the individual is entitled for services rendered by the individual (whether or not as an employee), and

(c) the premium was remitted to the plan on behalf of the individual by the person or body of persons that is required to remunerate the individual for the services, or by an agent for that person or body,

but does not include the part, if any, of a premium that, by making (or failing to make) an election or exercising (or failing to exercise) any other right under the arrangement after beginning to participate in the arrangement and within 12 months before the time the premium was paid, the individual could have prevented from being paid under the plan and that would not as a consequence have been required to be remitted on behalf of the individual to another registered retirement savings plan or to a registered pension plan in respect of a money purchase provision of the plan.

Qualifying  
arrangement

(1.32) For the purpose of paragraph (1.31)(a), a qualifying arrangement is an arrangement under which premiums that satisfy the conditions in paragraphs (1.31)(b) and (c) are remitted to registered retirement savings plans on behalf of two or more individuals, but does not include an arrangement where it is reasonable to consider that one of the main purposes of the arrangement is to reduce tax payable under this Part.

**(4) Section 204.2 of the Act is amended by adding the following after subsection (1.4):**

Transitional  
amount

(1.5) For the purpose of the description of E in paragraph (1.1)(b), an individual's transitional amount at any time in a taxation year is the lesser of

(a) \$6,000, and

(b) where the value of A is nil, nil, and in any other case, the amount determined by the formula

$$A - B$$

where

A is the amount, if any, by which

(i) the amount that would be determined under subsection (1.2) to be the amount of the individual's undeducted RRSP premiums at that time if

(A) the value of I in that subsection were determined for the 1995 taxation year without including premiums paid after February 26, 1995,

(B) the value of I in that subsection were nil for the 1996 and subsequent taxation years, and

(C) the value of J in that subsection were determined for the 1995 and subsequent taxation years without including the part, if any, of an amount received by the individual out of or under a registered retirement savings plan or registered retirement income fund that can reasonably be considered to be in respect of premiums paid after February 26, 1995 by the individual under a registered retirement savings plan

exceeds

(ii) the total of all amounts each of which is an amount deducted under subsection 146(5) or (5.1) in computing the individual's income for a preceding taxation year, to the extent that the amount was deducted in respect of premiums paid after that year (other than premiums paid before February 27, 1995), and

B is the amount that would be determined by the formula in paragraph (1.1)(b) in respect of the individual at that time if the values of D and E in that paragraph were nil and section 257 did not apply to that formula.

**(5) Subsections (1) to (4) apply to the 1996 and subsequent taxation years.**

**52. (1) The heading of Part XI.2 of the Act is replaced by the following:**

TAX IN RESPECT OF DISPOSITIONS OF CERTAIN PROPERTIES

**(2) Subsection (1) applies after February 27, 1995.**

**53. (1) The Act is amended by adding the following after section 207.3:**

Tax payable by  
recipient of an  
ecological gift

**207.31** Any charity or municipality that, at any time in a taxation year, without the authorization of the Minister of the Environment, or a person designated by that Minister, disposes or changes the use of a property described in paragraph 110.1(1)(d) or in the definition "total ecological gifts" in subsection 118.1(1) and given to the charity or municipality after February 27, 1995 shall, in respect of the year pay a tax under this Part equal to 50% of the fair market value of the property at the time of the disposition or change.

**(2) Subsection (1) applies after February 27, 1995.**

**54. (1) The portion of subsection 207.4(1) of the Act before paragraph (a) is replaced by the following:**

Return and  
payment of tax

**207.4** (1) Any institution, public authority, charity or municipality that is liable to pay a tax under subsection 207.3 or 207.31 in respect of a year shall, within 90 days after the end of the year,

**(2) Subsection (1) applies after February 27, 1995.**

**55. (1) Subparagraphs 212(1)(h)(i) and (ii) of the Act are repealed.**

**(2) Subsection (1) applies to payments made after 1995.**

**56. (1) Subparagraph 217(b)(i) of the Act is replaced by the following:**

(i) paragraph 115(1)(a) shall be read as though it included the following subparagraph:

"(i.1) amounts paid or credited to the non-resident person in the year on which that person would, under any of paragraphs 212(1)(f), (h), (j) to (m) and (q) be liable to pay tax under Part XIII if no election were made under section 217," and

**(2) Paragraph 217(c) of the Act is amended by replacing the portion of section 118.94 therein after paragraph 118.94(b) with the following:**

<?[ip6n,6n]>not exceeding the appropriate percentage for the year of the total of all amounts each of which is an amount paid or credited to the individual in the year on which the individual would, under any of paragraphs 212(1)(f), (h), (j) to (m) and (q) be liable to pay tax under Part XIII if no election were made under

section 217."

**(2) Subsections (1) and (2) apply to the 1996 and subsequent taxation years.**

**57. Section 227 of the Act is amended by adding the following after subsection (4):**

Payments by  
trustees, etc.

(5) Where a specified person in relation to a particular person (in this subsection referred to as the "payer") has any direct or indirect influence over the disbursements, property, business or estate of the payer and the specified person, alone or together with another person, authorizes or otherwise causes a payment referred to in subsection 135(3) or 153(1), or on which tax is payable under Part XIII, to be made by or on behalf of the payer, the specified person

(a) is, for the purposes of subsections 135(3) and 153(1), section 215 and this section, deemed to be a person who made the payment;

(b) is jointly and severally liable with the payer to pay to the Receiver General

(i) all amounts payable by the payer because of any of subsections 135(3) and 153(1) and section 215 in respect of the payment, and

(ii) all amounts payable under this Act by the payer because of any failure to comply with any of those provisions in respect of the payment; and

(c) is entitled to deduct or withhold from any amount paid or credited by the specified person to the payer or otherwise recover from the payer any amount paid under this subsection by the specified person in respect of the payment.

Definition of  
"specified  
person"

(5.1) In subsection (5), a "specified person" in relation to a particular person means a person who is, in relation to the particular person or the disbursements, property, business or estate of the particular person,

(a) a trustee;

(b) a liquidator;

(c) a receiver;

(d) an interim receiver;

(e) a receiver-manager;

(f) a trustee in bankruptcy or other person appointed under the *Bankruptcy and Insolvency Act*;

(g) an assignee;

(h) a secured creditor (as defined in subsection 224(1.3));

(i) an executor or administrator;

(j) any person acting in a capacity similar to that of a person referred to in any of paragraphs (a) to (i);

(k) a person appointed (otherwise than as an employee of the creditor) at the request of, or on the advice of, a secured creditor in relation to the particular person to monitor, or provide advice in respect of, the disbursements, property, business or estate of the particular person under circumstances such that it is reasonable to conclude that the person is appointed to protect or advance the interests of the creditor; or

(l) an agent of a specified person referred to in any of paragraphs (a) to (k).

"Person"  
includes  
partnership

(5.2) For the purposes of this section, references in subsections (5) and (5.1) to persons include partnerships.

**58. (1) Subsection 231.2(3) of the Act is amended by adding the word "and" at the end of paragraph (a) and by repealing paragraphs (c) and (d).**

**(2) Subsection 231.2(6) of the Act is replaced by the following:**

Powers on  
review

(6) On hearing an application under subsection (5), a judge may cancel the authorization previously granted if the judge is not then satisfied that the conditions in paragraphs (3)(a) and (b)

have been met and the judge may confirm or vary the authorization if the judge is satisfied that those conditions have been met.

**59. (1) Subsection 241(4) of the Act is amended by striking out the word "or" at the end of paragraph (j), by adding the word "or" at the end of paragraph (k) and by adding the following after paragraph (k):**

(l) provide the business number, name, address, telephone number and facsimile number of a holder of a business number to an official of a department or agency of the Government of Canada or of a province solely for the purpose of the administration or enforcement of an Act of Parliament or a law of a province, if the holder of the business number is required by that Act or that law to provide the information (other than the business number) to the department or agency.

**(2) Subsection 241(10) of the Act is amended by adding the following in alphabetical order:**

"business  
number"  
« *numéro*  
*d'entreprise* »

"business number" means the number (other than a Social Insurance Number) used by the Minister to identify

(a) a corporation or partnership, or

(b) any other association or taxpayer that carries on a business or is required by this Act to deduct or withhold an amount from an amount paid or credited or deemed to be paid or credited under this Act;

**60. (1) The definition "fiscal period" in subsection 248(1) of the Act is repealed.**

**(2) Subsection 248(1) of the Act is amended by adding the following in alphabetical order:**

"filing-due  
date"  
« *date*  
*d'échéance de*  
*production* »

"filing-due date" for a taxation year of a taxpayer means the day on or before which the taxpayer's return of income under Part I for the year is required to be filed or would be required to be

filed if tax under that Part were payable by the taxpayer for the year;

"professional corporation"  
« *société professionnelle* »

"professional corporation" means a corporation that carries on the professional practice of an accountant, dentist, lawyer, medical doctor, veterinarian or chiropractor;

"scientific research and experimental development"  
« *activités de recherche scientifique et de développement expérimental* »

"scientific research and experimental development" has the meaning assigned by regulation;

**(3) Section 248 of the Act is amended by adding the following after subsection (27):**

Limitation  
respecting  
inclusions,  
deductions and  
tax credits

(28) Unless a contrary intention is evident, no provision of this Act shall be read or construed

(a) to require the inclusion or permit the deduction, either directly or indirectly, in computing a taxpayer's income, taxable income or taxable income earned in Canada, for a taxation year or in computing a taxpayer's income or loss for a taxation year from a particular source or from sources in a particular place, of any amount to the extent that the amount has already been directly or indirectly included or deducted, as the case may be, in computing such income, taxable income, taxable income earned in Canada or loss, for the year or any preceding taxation year;

(b) to permit the deduction, either directly or indirectly, in



computing a taxpayer's tax payable under any Part of this Act for a taxation year of any amount to the extent that the amount has already been directly or indirectly deducted in computing such tax payable for the year or any preceding taxation year; or

(c) to consider an amount to have been paid on account of a taxpayer's tax payable under any Part of this Act for a taxation year to the extent that the amount has already been considered to have been paid on account of such tax payable for the year or any preceding taxation year.

(4) Subsection (1) applies to fiscal periods that begin after 1994.

(5) The definition "filing-due date" in subsection 248(1) of the Act, as enacted by subsection (2), applies after 1993.

(6) The definition "professional corporation" in subsection 248(1) of the Act, as enacted by subsection (2), applies after 1994.

(7) The definition "scientific research and experimental development" in subsection 248(1) of the Act, as enacted by subsection (2), applies to work performed after February 27, 1995 except that, for the purposes of paragraphs 149(1)(j) and (8)(b) of the Act, that definition does not apply to work performed pursuant to an agreement in writing entered into before February 28, 1995.

(8) Subsection (3) applies to taxation years that end after July 19, 1995.

61. (1) The Act is amended by adding the following after section 249:

Definition of  
"fiscal period"

**249.1** (1) For the purposes of this Act, a "fiscal period" of a business or a property of a person or partnership means the period for which the person's or partnership's accounts in respect of the business or property are made up for purposes of assessment under this Act, but no fiscal period may end

(a) in the case of a corporation, more than 53 weeks after the period began,

(b) in the case of

(i) an individual (other than a testamentary trust or an individual to whom section 149 or 149.1 applies),

(ii) a partnership of which

(A) an individual (other than a testamentary trust or an individual to whom section 149 or 149.1 applies),

(B) a professional corporation, or

(C) a partnership to which this subparagraph applies,

would, if the fiscal period ended at the end of the calendar year in which the period began, be a member of the partnership in the period, or

(iii) a professional corporation that would, if the fiscal period ended at the end of the calendar year in which the period began, be in the period a member of a partnership to which subparagraph (ii) applies,

after the end of the calendar year in which the period began unless, in the case of a business, the business is not carried on in Canada or is a prescribed business, and

(c) in any other case, more than 12 months after the period began,

and, for the purpose of this subsection, the activities of a person to whom section 149 or 149.1 applies are deemed to be a business.

Not a member of  
a partnership

(2) For the purpose of subparagraph (1)(b)(ii) and subsection (4), a person or partnership that would not have a share of any income or loss of a partnership for a fiscal period of the partnership, if the period ended at the end of the calendar year in which the period began, is deemed not to be a member of the partnership in that fiscal period.

Subsequent  
fiscal periods

(3) Where a fiscal period of a business or a property of a person or partnership ends at any time, the subsequent fiscal period, if any, of the business or property of the person or partnership is deemed to begin immediately after that time.

Alternative  
method

(4) Paragraph (1)(b) does not apply to a fiscal period of a

business carried on, throughout the period of time that began at the beginning of the fiscal period and ended at the end of the calendar year in which the fiscal period began,

(a) by an individual (otherwise than as a member of a partnership), or

(b) by an individual as a member of a partnership, where throughout that period

(i) each member of the partnership is an individual, and

(ii) the partnership is not a member of another partnership,

where

(c) in the case of an individual

(i) who is referred to in paragraph (a), or

(ii) who is a member of a partnership no member of which is a testamentary trust,

an election in prescribed form to have paragraph (1)(b) not apply is filed with the Minister by the individual on or before the individual's filing-due date, and with the individual's return of income under Part I, for the taxation year that includes the first day of the first fiscal period of the business that begins after 1994, and

(d) in the case of an individual who is a member of a partnership a member of which is a testamentary trust, an election in prescribed form to have paragraph (1)(b) not apply is filed with the Minister by the individual on or before the earliest of the filing-due dates of the members of the partnership for a taxation year that includes the first day of the first fiscal period of the business that begins after 1994.

Alternative  
method not  
applicable to  
tax shelter

(5) Subsection (4) does not apply to a particular fiscal period of a business where, in a preceding fiscal period or throughout the period of time that began at the beginning of the particular period and ended at the end of the calendar year in which the particular period began, the expenditures made in the course of carrying on the business were primarily the cost or capital cost of tax shelters (within the meaning assigned by subsection 237.1(1)).

Revocation of  
election

(6) Subsection (4) does not apply to fiscal periods of a business carried on by an individual that begin after the beginning of a particular taxation year of the individual where

(a) an election in prescribed form to revoke an election filed under subsection (4) in respect of the business is filed with the Minister; and

(b) the election to revoke is filed

(i) in the case of an individual

(A) who is not a member of a partnership, or

(B) who is a member of a partnership no member of which is a testamentary trust,

by the individual on or before the individual's filing-due date, and with the individual's return of income under Part I, for the particular taxation year, and

(ii) in case of an individual who is a member of a partnership a member of which is a testamentary trust, by the individual on or before the earliest of the filing-due dates of the members of the partnership for a taxation year that includes the first day of the first fiscal period of the business that begins after the beginning of the particular year.

Change of  
fiscal period

(7) No change in the time when a fiscal period ends may be made for the purposes of this Act without the concurrence of the Minister.

**(2) Subsection (1) applies to fiscal periods that begin after 1994.**

PART II

R.S., c. E-14;  
R.S., cc. 15,  
27 (1st Supp.),  
cc. 1, 7, 42  
(2nd Supp.), c.  
12 (4th Supp.);

1989, c. 22;  
1990, c. 45;  
1991, c. 42;  
1993, c. 25;  
1994, cc. 13,  
29, 37; 1995,  
cc. 36, 41

EXCISE ACT

R.S., c. 12  
(4th Supp.), s.  
61

**62. (1) Paragraph 110.1(1)(b) of the *Excise Act* is replaced by the following:**

(b) interest at such rates per annum prescribed under the *Income Tax Act* for amounts payable by the Minister as refunds of overpayments of tax under that Act as are in effect from time to time, in respect of each day between the expiration of that time and the day on which the total duty, penalty and interest outstanding is paid, calculated on the total duty, penalty and interest outstanding on that day.

**(2) Subsection (1) applies to interest that is calculated in respect of periods that are after June 1995.**

PART III

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

EXCISE TAX ACT

*Amendments*

R.S., c. 7 (2nd  
Supp.), s.  
49(1)

**63. (1) Subsection 102.1(2) of the *Excise Tax Act* is amended by adding the word "and" at the end of paragraph (a) and by repealing paragraphs (c) and (d).**

R.S., c. 7 (2nd  
Supp.), s.  
49(1)

**(2) Paragraph 102.1(5)(a) of the Act is replaced by the following:**

(a) cancel the authorization if the judge is not satisfied that the conditions referred to in paragraphs (2)(a) and (b) have been met; or

1994, c. 9, s.  
2(1)

**64. (1) The definition "taxation year" in subsection 123(1) of the Act is amended by striking out the word "and" at the end of paragraph (a) and by replacing paragraph (b) with the following:**

(b) where the person is a partnership described in subparagraph 249.1(1)(b)(ii) of that Act, the fiscal period of the person's business determined under subsection 249.1(1) of that Act, and

(c) in any other case, the period that would be the taxation year of the person for the purposes of that Act if the person were a corporation other than a professional corporation (within the meaning assigned by subsection 248(1) of that Act);

**(2) Subsection (1) applies to fiscal periods that begin after 1994.**

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

**65. (1) Subsection 228(2) of the Act is replaced by the following:**

Remittance

(2) Where the net tax for a reporting period of a person is a positive amount, the person shall remit that amount to the Receiver General,

(a) where the person is an individual to whom subparagraph 238(1)(a)(ii) applies in respect of the reporting period, on or before April 30 of the year following the end of the reporting period; and

(b) in any other case, on or before the day on or before which the return for that period is required to be filed.

**(2) Subsection (1) applies to reporting periods that begin after 1994.**

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

**66. (1) Paragraph 238(1)(a) of the Act is replaced by the following:**

(a) where the registrant's reporting period is or would, but for subsection 251(1), be the fiscal year,

(i) except where subparagraph (ii) applies, within three months after the end of the year, and

(ii) where

(A) the registrant is an individual,

(B) the fiscal year is a calendar year, and

(C) for the purposes of the *Income Tax Act*,

(I) the individual carried on a business in the year, and

(II) the filing-due date of the individual for the year is June 15 of the following year,

on or before that day; and

**(2) Subsection (1) applies to reporting periods that begin after 1994.**

67. (1) Subsection 295(1) of the Act is amended by adding the following in alphabetical order:

"business  
number"  
« numéro  
d'entreprise »

"business number" means the number (other than a Social Insurance Number) used by the Minister to identify

(a) a registrant for the purposes of this Part, or

(b) an applicant (other than an individual) for a rebate under this Part;

(2) Subsection 295(5) of the Act is amended by striking out the word "or" at the end of paragraph (h), by adding the word "or" at the end of paragraph (i) and by adding the following after paragraph (i):

(j) provide the business number, name, address, telephone number and facsimile number of a holder of a business number to an official of a department or agency of the Government of Canada or of a province solely for the purpose of the administration or enforcement of an Act of Parliament or a law of a province, if the holder of the business number is required by that Act or that law to provide the information (other than the business number) to the department or agency.

#### *Transitional Provisions*

Fiscal periods  
of persons  
entitled to  
elect

68. Where, for the purposes of the *Income Tax Act*, the fiscal period of a business of

(a) an individual or trust, whose fiscal year, for the purposes of Part IX of the *Excise Tax Act*, is the fiscal period of the business, or

(b) a partnership

ends at the end of 1995 but would have ended after 1995 had the individual, trust or a member of the partnership, as the case may be, made an election in respect of the fiscal period which the individual, trust or member was entitled to make under section



249.1 of the *Income Tax Act*, as enacted by section 61, for the purpose of determining the fiscal year of the individual, trust or partnership for the purposes of Part IX of the *Excise Tax Act*, the said section 249.1 applies only to fiscal periods of the business that begin after 1995.

Status as  
financial  
institution of  
persons  
entitled to  
elect

69. For the purpose of determining if a partnership to which section 68 applies is, for the purposes of Part IX of the *Excise Tax Act*, a financial institution throughout its taxation year that begins on January 1, 1997, subparagraph 149(1)(b)(i) of that Act and the portion of paragraph 149(1)(b) of that Act after that subparagraph shall be read as follows:

(i) the total of all amounts, each of which is an amount

(A) that would be included in computing, for the purposes of the *Income Tax Act*, the person's income for the period that is the person's taxation year immediately preceding the particular year if it were a fiscal period of the business of the person for the purposes of that Act, and

(B) 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

exceeds \$10,000,000, or

(ii) the person was, because of this paragraph, a financial institution throughout that period.

Status as  
financial  
institution of  
persons not  
entitled to  
elect

70. Where, for the purposes of the *Income Tax Act*,

(a) a particular fiscal period of a business of a corporation or of a partnership (other than a partnership to which section 68 applies) began after January 1, 1995 and ends at the end of 1995 because of the application of paragraph 249.1(1)(b) of that Act,

as enacted by section 61, and

(b) at the end of 1994, the corporation or partnership carried on the business,

for the purposes of determining if, for the purposes of Part IX of the *Excise Tax Act*, the corporation or partnership is a financial institution throughout its taxation year that began on January 1, 1996, subparagraph 149(1)(b)(i) of that Act and the portion of paragraph 149(1)(b) of that Act after that subparagraph shall be read as follows:

(i) the total of all amounts, each of which is an amount

(A) that is included in computing, for the purposes of the *Income Tax Act*, the person's income for the person's taxation year immediately preceding the particular year, and

(B) 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

exceeds \$10,000,000, or

(ii) the person was, because of this paragraph, a financial institution throughout that preceding taxation year.

Threshold  
amounts

71. Notwithstanding subsection 249(1) of the *Excise Tax Act*, for the purposes of sections 245, 247 and 248 of that Act, the threshold amount of a person to whom section 68 or 70 applies for the particular fiscal year of the person that begins on

(a) January 1, 1997, where section 68 applies, and

(b) January 1, 1996, where section 70 applies,

is the greater of

(c) the amount that would be determined under the said subsection 249(1) to be that threshold amount if the number of days referred to in the descriptions of B and D in that subsection were 365, and

(d) the threshold amount of the person, as determined under the said subsection 249(1), for the fiscal year of the person immediately preceding the particular fiscal year.

PART IV

R.S., c. 18,  
(3rd Supp.)  
Part I; 1991,  
cc. 24, 45, 46,  
47; 1992, cc.  
1, 56; 1994, c.  
26

OFFICE OF THE SUPERINTENDENT OF FINANCIAL INSTITUTIONS ACT

*Amendment to Act*

**72. (1) Subsection 23(7) of the *Office of the Superintendent of Financial Institutions Act* is replaced by the following:**

Interest

(7) Interest may be charged on the unpaid amount of any assessment or interim assessment under subsection (3) or (4) at a rate equal to the rate prescribed under the *Income Tax Act* for amounts payable by the Minister of National Revenue as refunds of overpayments of tax under that Act in effect from time to time plus two per cent.

(2) Subsection (1) applies to interest that is calculated in respect of periods that are after June 1995.

*Conditional Amendment*

1991, c. 24

**73. If this Act is assented to before section 10 of Schedule III to *An Act to amend the Financial Administration Act and other Acts in consequence thereof*, being chapter 24 of the Statutes of Canada, 1991, comes into force, then, on the coming into force of this section, section 10 of Schedule III to that Act and the heading before it are repealed.**

PART V

R.S. c. O-9;  
R.S., c. 34  
(1st Supp.),  
cc. 1, 51 (4th  
Supp.); 1990,  
c. 39; 1991, c.

44; 1992, cc.  
24, 48; 1995,  
c. 33

OLD AGE SECURITY ACT

**74. Paragraph 33(2)(a) of the *Old Age Security Act* is replaced by the following:**

(a) the Department of National Revenue, the Department of Finance, the Department of Supply and Services, the Canada Employment and Immigration Commission, Statistics Canada or Canada Post, where such information is necessary for the administration of this Act or the *Income Tax Act*;

PART VI

R.S., c. S-9;  
R.S., cc. 27,  
31 (1st Supp.),  
cc. 1, 27 (2nd  
Supp.), c. 6  
(3rd Supp.), c.  
40 (4th Supp.);  
1989, cc. 3,  
17; 1990, cc.  
16, 17, 44;  
1991, c. 24;  
1992, cc. 1,  
27, 31, 51;  
1993, c. 36;  
1994, cc. 24,  
41; 1995, cc 1,  
5

CANADA SHIPPING ACT

R.S., c. 6 (3rd  
Supp.), s. 84

**75. (1) Subsection 723(1) of the *Canada Shipping Act* is replaced by the following:**

Claimants  
entitled to  
interest

**723. (1)** Interest accrues on any claim under this Part against a ship owner, the guarantor of a ship owner, the Ship-source Oil

Pollution Fund or the International Fund at the rate prescribed under the *Income Tax Act* for amounts payable by the Minister of National Revenue as refunds of overpayments of tax under that Act in effect from time to time.

**(2) Subsection (1) applies to interest that is calculated in respect of periods that are after June 1995.**