

Notice of Ways and Means Motion to implement certain provisions
of the budget tabled in Parliament on February 18, 1997

The Minister of Finance

Notice of Ways and Means Motion to implement certain provisions of the budget tabled in Parliament on February 18, 1997

That it is expedient to implement certain provisions of the budget tabled in Parliament on February 18, 1997 as follows:

SUMMARY

PART I

Part I establishes the Canada Foundation for Innovation with the objects and purposes of paying grants to modernize and enhance the infrastructure for research in Canada.

PART II

Part II enables the Cowichan Tribes of Indians to impose a tax similar to that imposed under the *Tobacco Tax Act*, R.S.B.C. 1979, c. 404 of British Columbia, on sales of tobacco to Indians on the reserves of the Cowichan Tribes.

PART III

Part III enables the Cowichan Tribes of Indians to impose a 7% value-added tax on all sales of tobacco products on the reserves of the Cowichan Tribes.

PART IV

Part IV enables the Westbank First Nation to impose a 7% value-added tax on all sales of tobacco products on the reserves of the Westbank First Nation.

PART V

Part V amends the *Excise Tax Act* to implement increases in the excise tax rates on tobacco products intended for retail sale in Ontario, Quebec, New Brunswick, Nova Scotia and Prince Edward Island and to modify the excise tax treatment of tobacco exports to foreign duty free shops. In addition, the *Income Tax Act* is amended to extend the current tobacco manufacturers' surtax and the *Customs Tariff* is amended to reduce the amount of certain tobacco products that can be brought into Canada by individuals on a tax and duty free basis.

PART VI

Part VI amends the *Income Tax Act* to restructure the working income supplement component of the child tax benefit by moving it from a family basis to a per child basis. The assistance provided by the working income supplement is also increased.

PART VII

Part VII amends the *Excise Tax Act* and the *Income Tax Act* to allow air carriers to exchange income tax loss carryforwards for rebates of excise tax paid on aviation fuel. The rebate, which is available to air carriers in respect of fuel purchased or imported in the years 1996 to 1999, may not exceed \$20,000,000 a year for any one carrier or group of carriers. An air carrier that claims a rebate must reduce its income tax loss carryforwards by 10 times the amount of the rebate (or include 10 times the amount of the rebate in its income). If the air carrier later repays the rebate, with interest, it may reinstate its losses.

PART VIII

Part VIII amends the *Excise Tax Act* to clarify that taxpayers must use the same method to measure the volume of fuel for the purpose of accounting for excise tax as that used to establish the quantity of fuel sold or imported.

PART IX

Part IX amends the *Employment Insurance Act* to

(a) increase the threshold for refunds of employers' premiums to employers whose premiums increase during 1997 and 1998;

(b) provide for the payment of benefits to claimants while they are receiving training under a program of a province or other organization that is the subject of an agreement under section 63 of that Act; and

(c) exclude benefits paid to a claimant while employed under an employment program of a province or other organization that is the subject of an agreement under section 63 of that Act from being considered as earnings from employment for the purposes of that Act, the *Income Tax Act* and the *Canada Pension Plan*.

PART X

Part X amends the *Bretton Woods and Related Agreements Act* to permit the Minister of Finance to enter agreements with the Bank for International Settlements to guarantee repayment of amounts loaned to a country in accordance with a credit facility.

The *Farm Credit Corporation Act* is amended to increase the ceiling on amounts that the Minister of Finance may pay to the Farm Credit Corporation.

PART XI

Part XI provides for the payment of \$800 million plus interest to the Canada Foundation for Innovation.

EXPLANATORY NOTES

Excise Tax Act

Clause 59: (1) The amendment adds a reference to section 23.22.

Clause 60: (1) New.

Clause 61: (1) The amendment deletes a reference to the Province of New Brunswick.

(2) Subsection 23.31(2) reads as follows:

(2) Tax shall not be imposed under subsection (1) where the purchaser referred to in that subsection is a consumer located in the province referred to in that subsection and the purchase is for

consumption by the purchaser or by others at the expense of the purchaser.

Clause 62: (1) The amendment adds a reference to the Province of New Brunswick.

(2) Subsection 23.32(2) reads as follows:

(2) Tax shall not be imposed under subsection (1) where the purchaser referred to in that subsection is a consumer in the Province of Quebec and the purchase is for consumption by the purchaser or by others at the expense of the purchaser.

Clause 63: (1) Subsection 23.33(1) reads as follows:

23.33 (1) An excise tax shall be imposed, levied and collected on manufactured tobacco, other than tobacco sticks, that is

(a) marked or stamped in accordance with a statute of the Province of Nova Scotia to indicate that it is intended for retail sale in the province; and

(b) sold by the manufacturer of the manufactured tobacco, or by a person who is authorized under a statute of the province to sell manufactured tobacco in the province, to a purchaser who is not authorized under a statute of the province to sell manufactured tobacco in the province.

(2) Subsections 23.33(3) and (4) read as follows:

(3) The tax imposed under subsection (1) is payable by the person selling the manufactured tobacco to the purchaser referred to in that subsection and is payable at the time of the sale.

(4) The tax imposed on manufactured tobacco under subsection (1) shall be equal to the amount by which

(a) the excise tax that would have been imposed under section 23 in respect of the manufactured tobacco if the applicable rates of excise tax were the rates set out in paragraphs 1(f) and 3(e) of Schedule II

exceeds

(b) the excise tax that was imposed under section 23 in respect of the manufactured tobacco.

Clause 64: (1) The definition "Nova Scotia manufactured tobacco" in subsection 23.34(1) reads as follows:

"Nova Scotia manufactured tobacco" means manufactured tobacco that is marked or stamped in accordance with the Tobacco Tax Act, R.S.N.S. 1989, c. 470, to indicate that the manufactured tobacco is intended for retail sale in the Province of Nova Scotia.

(2) New. The definitions "Nova Scotia cigarettes" and "Nova Scotia tobacco sticks" are the same as those in subsection 68.169(1).

(3) The relevant portion of subsection 23.34(2) reads as follows:

(2) An excise tax shall be imposed, levied and collected on manufactured tobacco, other than tobacco sticks, that is Atlantic manufactured tobacco, black stock or Nova Scotia manufactured tobacco, to which paragraph 1(e) or 3(d) of Schedule II applies and that a licensed wholesale vendor sells to a person other than

(4) Subsection 23.34(4) reads as follows:

(4) The tax imposed on manufactured tobacco under subsection (2) shall be equal to the amount by which

(a) the excise tax that would have been imposed under section 23 in respect of the manufactured tobacco if the applicable rates of excise tax were the rates set out in paragraphs 1(f) and 3(e) of Schedule II

exceeds

(b) the excise tax that was imposed under section 23 in respect of the manufactured tobacco.

Clause 65: (1) The relevant portion of subsection 23.341(1) reads as follows:

23.341 (1) An excise tax shall be imposed, levied and collected on Nova Scotia manufactured tobacco, to which section 68.169 and paragraph 1(e) or 3(d) of Schedule II apply, that a licensed retail vendor sells to a person other than

(2) Subsection 23.341(3) reads as follows:

(3) The tax imposed under subsection (1) shall be equal to the amount by which

(a) the excise tax that would have been imposed under section 23 in respect of the manufactured tobacco if the applicable rates of excise tax were the rates set out in paragraphs 1(f) and 3(e) of Schedule II,

exceeds

(b) the excise tax imposed at the rates of

(i) \$0.05263 per five cigarettes, in the case of cigarettes,

(ii) \$0.00325 per tobacco stick, in the case of tobacco sticks,
and

(iii) \$7.948 per kilogram, in the case of manufactured tobacco
other than cigarettes and tobacco sticks.

Clause 66: (1) Subsection 23.36(2) reads as follows:

(2) Where a designated wholesale vendor sells to a designated retail vendor a quantity of black stock, in respect of which subparagraph 1(c)(ii) or 3(b)(ii) of Schedule II applies, that is in excess of the quantity of black stock that the designated wholesale vendor is authorized in writing by the Nova Scotia Provincial Tax Commission to sell to the designated retail vendor without the collection of tax under the Tobacco Tax Act, R.S.N.S. 1989, c. 470, an excise tax shall be imposed, levied and collected on that excess black stock.

(2) Subsection 23.36(3) reads as follows:

(3) Where a designated wholesale vendor sells black stock, in respect of which subparagraph 1(c)(ii) or 3(b)(ii) of Schedule II applies, to a person other than an Indian consumer on a reserve in Nova Scotia or a designated retail vendor, an excise tax shall be imposed, levied and collected on that black stock.

(3) Subsection 23.36(5) reads as follows:

(5) The tax imposed on black stock under subsection (2) or (3) shall be equal to the amount by which

(a) the excise tax that would have been imposed under section 23 in respect of the black stock if the applicable rates of excise tax were the rates set out in paragraphs 1(f) and 3(e) of Schedule II

exceeds

(b) the excise tax that was imposed under section 23 in respect of the black stock.

Clause 67: (1) Section 68.161 reads as follows:

68.161 The Minister may refund to the manufacturer or producer of tobacco products (within the meaning assigned by section 23.1) the tax paid under subsection 23.2(1) in respect of the tobacco products where

(a) the manufacturer or producer provides to the Minister evidence satisfactory to the Minister that all taxes imposed on the tobacco products by the national government of the country to which the tobacco products were exported have been paid; and

(b) the manufacturer or producer applies to the Minister for the repayment within two years after the tobacco products were exported.

Clause 68: (1) New. The definition "Nova Scotia manufactured tobacco" is the same as that in subsection 23.34(1).

(2) Subsections 68.169(3.21) and (3.22) are new. Subsections 68.169(3.2), (4) and (5) read as follows:

(3.2) Where, after the day on which the Act that enacts this subsection is assented to, a licensed wholesale vendor sells Nova Scotia cigarettes or Nova Scotia tobacco sticks to a licensed retail vendor, or to a consumer in the Province of Prince Edward Island for consumption by the consumer or by others at the expense of the consumer, the Minister may pay to the licensed wholesale vendor a tax rebate equal to the total of

(a) \$0.00625 multiplied by the number of those cigarettes, and

(b) \$0.0074 multiplied by the number of those tobacco sticks.

(4) To qualify to receive a rebate under any of subsections (2) to (3.2) in respect of cigarettes or tobacco sticks, the licensed wholesale vendor must

(a) apply to the Minister for the rebate, within two years after the sale of the cigarettes or tobacco sticks by the licensed wholesale vendor, in any form and manner that is authorized by the Minister; and

(b) include in the application a certification by the Treasurer of the Province of Prince Edward Island that all tax payable in respect of the cigarettes or tobacco sticks under the *Health Tax Act*, R.S.P.E.I. 1988, c. H-3, has been paid.

(5) A licensed wholesale vendor shall not apply for a rebate under any of subsections (2) to (3.2) more often than once per month.

Clause 69: (1) The amendment adds a reference to section 68.161.

Clause 70: (1) The amendment deletes a reference to the Province of New Brunswick.

Clause 71: (1) The amendment adds a reference to the Province of New Brunswick.

Clause 72: (1) Section 97.3 reads as follows:

97.3 Where manufactured tobacco, other than tobacco sticks, has been marked or stamped in accordance with a statute of the Province of Nova Scotia to indicate that the manufactured tobacco is intended for sale in that province, every person who sells or offers for sale the manufactured tobacco to a consumer in any other province, other than the Province of Prince Edward Island, is guilty of an offence and is liable on summary conviction to a fine of not less than \$1,000 and not more than the greater of \$1,000 and triple the amount by which

(a) the excise tax that would be imposed under section 23 in respect of the manufactured tobacco if the applicable rates of excise tax were the rates set out in paragraphs 1(f) and 3(e) of Schedule II

exceeds

(b) the excise tax that was imposed under section 23 in respect of the manufactured tobacco.

Clause 73: (1) Subsection 97.5(2) reads as follows:

(2) Every person who sells or offers for sale black stock in respect of which excise tax was imposed under section 23 at a rate provided for under paragraph 1(c) or 3(b) of Schedule II, because of the application of subparagraph 1(c)(ii) or 3(b)(ii) of that Schedule, to a person other than a designated wholesale vendor, a designated retail vendor or an Indian consumer on a reserve in Nova Scotia is guilty of an offence and liable on summary conviction to a fine of not less than \$1,000 and not more than the greater of \$1,000 and triple the amount by which

(a) the excise tax that would be imposed under section 23 in respect of the black stock if the applicable rates of excise tax were the rates set out in paragraphs 1(f) and 3(e) of Schedule II

exceeds

(b) the excise tax that was imposed under section 23 in respect of the black stock.

Clause 74: (1) to (4) The relevant portion of item 1 of Schedule II reads as follows:

1. Cigarettes:

(a) \$0.03388 for each five cigarettes or fraction of five cigarettes contained in any package, where

(i) the cigarettes are marked or stamped in accordance with the *Tobacco Tax Act*, R.S.O. 1990, c. T.10, to clearly indicate that the cigarettes are intended for retail sale in the Province of Ontario, or

...

(b) \$0.02388 for each five cigarettes or fraction of five cigarettes contained in any package, where the cigarettes are marked or stamped in accordance with the *Tobacco Tax Act*, R.S.Q. 1977, c. I-2, to indicate that the cigarettes are intended for retail sale in the Province of Quebec;

(c) \$0.08388 for each five cigarettes or fraction of five cigarettes contained in any package, where

(i) the cigarettes are marked or stamped in accordance with the *Tobacco Tax Act*, R.S.N.S. 1989, c. 470, to clearly indicate that the cigarettes are intended for retail sale in the Province of Nova Scotia, or

...

(d) \$0.08388 for each five cigarettes or fraction of five cigarettes contained in any package, where the cigarettes are marked or stamped in accordance with the *Tobacco Tax Act*, R.S.N.B. 1973, c. T-7, to clearly indicate that the cigarettes are intended for retail sale in the Province of New Brunswick;

(e) \$0.08388 for each five cigarettes or fraction of five cigarettes contained in any package, where

(i) the cigarettes

(A) are marked or stamped "ATLANTIC" or "ATLANTIQUE" in accordance with the *Health Tax Act*, R.S.P.E.I. 1988, c. H-3, but not marked or stamped to indicate that they are intended for retail sale in a particular province, and are delivered after May 31, 1994 and before September 12, 1994 by the manufacturer or producer of the cigarettes to a wholesale vendor licensed as such under that Act,

(B) are black stock delivered after August 31, 1994 and before the first day of the second month following the month in which the Act that enacts this clause is assented to, by the manufacturer or producer of the cigarettes to a wholesale vendor licensed as such under the *Health Tax Act*, R.S.P.E.I. 1988, c. H-3, or

(C) are marked or stamped in accordance with the *Tobacco Tax Act*, R.S.N.S. 1989, c. 470, to indicate that the cigarettes are intended for retail sale in the Province of Nova Scotia and are delivered by the manufacturer or producer of the cigarettes to a wholesale vendor licensed as such under the *Health Tax Act*, R.S.P.E.I. 1988, c. H-3, and

(ii) the wholesale vendor certifies to the manufacturer or producer, in any form and manner authorized by the Minister, that the cigarettes are intended for retail sale in the Province of Prince Edward Island in accordance with that Act; and

Clause 75: (1) The amendment replaces "\$0.00575" with "\$0.00865".

Clause 76: (1) The relevant portion of item 3 of Schedule II reads as follows:

3. Manufactured tobacco other than cigarettes and tobacco sticks:

...

(b) \$7.948 per kilogram, where

(i) the manufactured tobacco is marked or stamped in accordance with the *Tobacco Tax Act*, R.S.N.S. 1989, c. 470, to clearly indicate that the manufactured tobacco is intended for retail sale in the Province of Nova Scotia, or

(ii) the manufactured tobacco is black stock delivered after April 14, 1994 by the manufacturer or producer of the manufactured tobacco to a designated wholesale vendor (as defined in subsection 23.36(1)) and the designated wholesale vendor certifies to the manufacturer or producer, in any form and manner authorized by the Minister, that the manufactured tobacco is intended for resale to designated retail vendors (as defined in subsection 23.36(1));

(c) \$9.448 per kilogram, where the manufactured tobacco is marked or stamped in accordance with the *Tobacco Tax Act*, R.S.N.B. 1973, c. T-7, to clearly indicate that the manufactured tobacco is intended for retail sale in the Province of New Brunswick;

(d) \$7.948 per kilogram, where

(i) the manufactured tobacco

(A) is black stock delivered after May 31, 1994 and before the first day of the second month following the month in which the Act that enacts this clause is assented to, by the

manufacturer or producer of the manufactured tobacco to a wholesale vendor licensed as such under the *Health Tax Act*, R.S.P.E.I. 1988, c. H-3, or

(B) is marked or stamped in accordance with the *Tobacco Tax Act*, R.S.N.S. 1989, c. 470, to indicate that the manufactured tobacco is intended for retail sale in the Province of Nova Scotia and is delivered by the manufacturer or producer of the manufactured tobacco to a wholesale vendor licensed as such under the *Health Tax Act*, R.S.P.E.I. 1988, c. H-3, and

(ii) the wholesale vendor certifies to the manufacturer or producer, in any form and manner authorized by the Minister, that the manufactured tobacco is intended for retail sale in the Province of Prince Edward Island in accordance with that Act; and

Income Tax Act

Clause 77: (1) The relevant portion of subsection 182(1) reads as follows:

182. (1) Every corporation shall pay a tax under this Part for each taxation year equal to 40% of that proportion of the corporation's Part I tax on tobacco manufacturing profits for the year that

(a) the number of days in the year that are after February 8, 1994 and before February 9, 1997

Customs Tariff

Clause 78: (1) The relevant portion of Note 7(a) to Chapter 98 of Schedule I reads as follows:

7. For the purpose of heading 98.05:

(a) the provisions shall apply to alcoholic beverages not exceeding 1.14 litres and tobacco not exceeding fifty cigars, two hundred cigarettes, four hundred tobacco sticks and four hundred grams of manufactured tobacco where they are included in the baggage accompanying the importer, and no exemption is being claimed in respect of alcoholic beverages or tobacco under another heading or subheading at the time of importation;

Clause 79: (1) Subheading Note 2 to Chapter 98 of Schedule I reads as follows:

2. For the purpose of subheading No. 9804.10, goods may include alcoholic beverages not exceeding 1.14 litres, and tobacco

not exceeding fifty cigars, two hundred cigarettes, four hundred tobacco sticks and four hundred grams of manufactured tobacco.

Income Tax Act

Clause 80: (1) The relevant portion of subsection 122.61(1) reads as follows:

122.61 (1) Where a person and, where the Minister so demands, the person's cohabiting spouse at the end of a taxation year have filed a return of income for the year, an overpayment on account of the person's liability under this Part for the year shall be deemed to have arisen during a month in relation to which the year is the base taxation year, equal to the amount determined by the formula

$$1/12(A - B)$$

where

A is the total of

(a) the product obtained by multiplying \$1,020 by the number of qualified dependants in respect of whom the person was an eligible individual at the beginning of the month,

(b) the product obtained by multiplying \$75 by the number of qualified dependants, in excess of 2, in respect of whom the person was an eligible individual at the beginning of the month,

(c) where the person is, at the beginning of the month, an eligible individual in respect of one or more qualified dependants, the amount determined by the formula

$$C - D$$

where

C is the lesser of \$500 and 8% of the amount, if any, by which the person's adjusted earned income for the year exceeds \$3,750, and

D is 10% of the amount, if any, by which the person's adjusted income for the year exceeds \$20,921, and

(2) The relevant portion of subsection 122.61(5) reads as follows:

(5) Each amount (other than the amount of \$20,921) expressed in dollars in subsection (1) shall be adjusted so that, where the base

taxation year in relation to a particular month is after 1991, the amount to be used under that subsection for the month is equal to the total of

(3) New.

Excise Tax Act

Clause 81: (1) The amendment adds a reference to subsection 68.4(3.1).

(2) New.

(3) New.

(4) Subsection 68.4(3.1) is new. Subsection 68.4(4) reads as follows:

(4) No fuel tax rebate shall be paid under subsection (2) or (3)

(a) in respect of fuel that is used or to be used other than for commercial purposes;

(b) in respect of fuel that is purchased or imported by the carrier or trucker, as the case may be, before 1991 or after 1992; or

(c) to a person who is or has been bankrupt or to the trustee in bankruptcy of the person in respect of any fuel that was purchased or imported by the person or the trustee before the person is discharged from the bankruptcy.

(5) Subsections 68.4(6) to (8) read as follows:

(6) Where a fuel tax rebate is paid to a person under this section in respect of fuel and the person sells any of the fuel to a purchaser or uses any of the fuel for a purpose other than the provision of eligible transportation services for commercial purposes, the amount of the rebate paid in respect of the fuel so sold or used shall be deemed to be a tax under this Act payable by the person

(a) at the time that the fuel is delivered to the purchaser, if it is sold to a purchaser; and

(b) at the time of the use, if the fuel is used by the person for a purpose other than the provision of eligible transportation services for commercial purposes.

(7) Subject to subsections (8) and (9), a person to whom a fuel tax rebate was paid under subsection (2) in a taxation year of the

person may repay to the Receiver General all or a part of the rebate.

(8) A repayment made under subsection (7) in respect of a fuel tax rebate paid under subsection (2) to a person in a taxation year of the person shall be made on or before the day that is 90 days after the day on which the Minister sends to the person a notice of assessment of tax payable by the person under Part I of the *Income Tax Act* for the year, a notice of determination under subsection 152(1.1) of that Act in respect of the person for the year or a notification that no tax is payable by the person under that Part for the year.

(6) The relevant portion of subsection 68.4(9) reads as follows:

(9) Where a person repays under subsection (7) all or a part of a fuel tax rebate, subsections 79(1) to (1.2) apply, with such modifications as the circumstances require, as if

...

(c) subsection 78(4) had required the tax to be paid on or before the last day of the month in which the person received the fuel tax rebate; and

Income Tax Act

Clause 82: (1) The relevant portion of subsection 12(1) reads as follows:

12. (1) There shall be included in computing the income of a taxpayer for a taxation year as income from a business or property such of the following amounts as are applicable:

...

(x.1) the total of all amounts each of which is

...

(ii) the amount, if any, by which

(A) 10 times the amount, if any, by which

(I) the total of all fuel tax rebates under subsection 68.4(2) of that Act received in the year by the taxpayer

exceeds

(II) the total of all amounts, in respect of fuel tax rebates under subsection 68.4(2) of that Act received in

the year by the taxpayer, repaid by the taxpayer under subsection 68.4(7) of that Act

exceeds

(B) the total of all amounts, in respect of fuel tax rebates under subsection 68.4(2) of that Act received in the year, deducted under subsection 111(10) in computing the taxpayer's non-capital loss for a year;

Clause 83: (1) The relevant portion of subsection 87(2) reads as follows:

(2) Where there has been an amalgamation of two or more corporations after 1971 the following rules apply:

...

(uu) for the purposes of paragraph 12(1)(x.1), the description of D.1 in the definition "non-capital loss" in subsection 111(8), clause 111(10)(a)(i)(B) and subsection 111(11), the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation.

Clause 84: (1) The relevant portion of subsection 111(10) reads as follows:

(10) Where, in a particular taxation year, a taxpayer received an amount (in this subsection referred to as a "rebate") as a fuel tax rebate under subsection 68.4(2) of the *Excise Tax Act*, in computing the amount of the taxpayer's non-capital loss for a taxation year (in this subsection referred to as the "loss year") that is one of the 7 taxation years preceding the particular year, there shall be deducted the lesser of

(a) the amount, if any, by which

(i) 10 times the amount, if any, by which

(A) the total of all rebates received by the taxpayer in the particular year

exceeds

(B) the total of all amounts, in respect of rebates received by the taxpayer in the particular year, repaid by the taxpayer under subsection 68.4(7) of that Act

exceeds

(ii) the total of all amounts, in respect of rebates received in the particular year, deducted under this subsection in computing the taxpayer's non-capital losses for other taxation years, and

(2) The relevant portion of subsection 111(11) reads as follows:

(11) Where a taxpayer was a member of a partnership at any time in a fiscal period during which the partnership received a fuel tax rebate under subsection 68.4(2) or (3) of the *Excise Tax Act*, the taxpayer is deemed

(a) to have received at that time as a rebate under subsection 68.4(2) or (3), as the case may be, of that Act an amount equal to that proportion of the amount of the rebate received by the partnership that the member's share of the partnership's income or loss for that fiscal period is of the whole of that income or loss, determined without reference to any rebate under section 68.4 of that Act; and

Clause 85: (1) The relevant portion of subsection 161(7) reads as follows:

(7) For the purpose of computing interest under subsection (1) or (2) on tax or a part of an instalment of tax for a taxation year, and for the purpose of section 163.1,

(a) the tax payable by the taxpayer under this Part and Parts I.3, VI and VI.1 for the year shall be deemed to be the amount that it would have been if none of the following amounts, namely,

...

(viii) any amount excluded from the amount determined under clause 12(1)(x.1)(ii)(A) because of subclause 12(1)(x.1)(ii)(A)(II) in respect of a fuel tax rebate repayment made in a subsequent taxation year,

...

were so excluded or deducted for the year, as the case may be; and

Clause 86: (1) The relevant portion of subsection 164(5) reads as follows:

(5) For the purpose of subsection (3), the portion of any overpayment of the tax payable by a taxpayer for a taxation year that arose as a consequence of

(a) the deduction of an amount under subclause 12(1)(x.1)(ii)(A)(II) in respect of a fuel tax rebate repayment made in a subsequent taxation year,

...

shall be deemed to have arisen on the day that is the latest of

...

(2) The relevant portion of subsection 164(5.1) reads as follows:

(5.1) Where a repayment made under subsection (1.1) or (4.1) or an amount applied under subsection (2) in respect of a repayment, or a part thereof, may reasonably be regarded as being in respect of a claim made by a taxpayer in an objection to or appeal from an assessment of tax for a taxation year for

(a) the deduction of an amount under subclause 12(1)(x.1)(ii)(A)(II) in respect of a fuel tax rebate repayment made in a subsequent taxation year,

...

interest shall not be paid or applied thereon for any part of a period that is before the latest of

...

Excise Tax Act

Clause 87: New.

Employment Insurance Act

Clause 88: (1) The relevant portion of subsection 25(1) reads as follows:

25. (1) For the purposes of this Part, a claimant is unemployed and capable of and available for work during a period when the claimant is

(a) attending a course or program of instruction or training at the claimant's own expense, or under employment benefits, to which the Commission, or an authority that the Commission designates, has referred the claimant; or

Clause 89: (1) Section 26 reads as follows:

26. For the purposes of this Part, Part IV, the *Income Tax Act* and the *Canada Pension Plan*, benefits paid to a claimant while

employed under employment benefits are not earnings from employment.

Clause 90: (1) Subsections 96(7.1) and (8.1) are new. Subsections 96(6) to (10) read as follows:

(6) If an employer pays less than \$30,000 in employer's premiums during 1996, the Minister shall refund to the employer a portion of the employer's premiums paid during 1997 determined by the following formula if that amount is more than \$1:

$$\frac{P2 - (P1 + \$500)}{2}$$

2

where

P1 is the amount of premiums paid in 1996; and

P2 is the amount of premiums paid in 1997.

(7) If an employer pays less than \$30,000 in employer's premiums during 1996, the Minister shall refund to the employer a portion of the employer's premiums paid during 1998 determined by the following formula if that amount is more than \$1:

$$\frac{P2 - (P1 + \$500)}{4}$$

4

where

P1 is the amount of premiums paid in 1996; and

P2 is the amount of premiums paid in 1998.

(8) A refund under subsection (6) or (7) shall not exceed

(a) \$5,000, if the amount of premiums paid in 1996 is less than \$25,000; and

(b) \$30,000 minus the amount of premiums paid in 1996, if that amount is \$25,000 or more, but less than \$30,000.

(9) If two or more employers are associated, as defined by the regulations, they shall be considered a single employer for the purposes of subsections (6) to (8) and any refund shall be allocated to them in the prescribed manner.

(10) A refund under subsections (4) to (7) is payable only if an application is made in writing to the Minister within three years after the end of the year for which the premiums were deducted or paid.

Bretton Woods and Related Agreements Act

Clause 92: New.

Farm Credit Corporation Act

Clause 93: Subsection 11(1) reads as follows:

11. (1) At the request of the Corporation, the Minister of Finance may, with the approval of the Governor in Council, pay to the Corporation, out of the Consolidated Revenue Fund, amounts not exceeding in the aggregate one billion, one hundred and twenty-five million dollars, or such greater aggregate amount as may be authorized from time to time under an appropriation Act.

An Act to implement certain provisions of the budget tabled in Parliament on February 18, 1997

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

Short title

1. This Act may be cited as the *Budget Implementation Act, 1997*.

PART I

CANADA FOUNDATION FOR INNOVATION

Interpretation

Definitions

2. The definitions in this section apply in this Part.

"auditor"
« *vérificateur*
»

"auditor" means the auditor for the foundation appointed under section 26.

"board"
« *conseil* »

"board" means the board of directors of the foundation.

"Chairperson"
« *président* »

"Chairperson" means the Chairperson of the board appointed under subsection 9(2).

"director"
« *administrateur*
»

"director" means a person who is on the board and includes the Chairperson.

"eligible
project"

« travaux
admissibles »

"eligible project" means a project carried on, or to be carried on, by an eligible recipient for the modernization, acquisition or development of research infrastructure by the recipient.

"eligible
recipient"
« *bénéficiaire*
admissible »

"eligible recipient" means

(a) a hospital, university or post-secondary college or educational institution that is situated in Canada and that carries on, or in the opinion of a majority of the directors is capable of carrying on, meaningful research; or

(b) a non-profit organization or a trust the activities of which are primarily carried on in Canada and that carries on, or in the opinion of a majority of the directors is capable of carrying on, meaningful research.

"employee or
agent of Her
Majesty in
right of a
province"
« *employé ou*
mandataire de
Sa Majesté du
chef d'une
province »

"employee or agent of Her Majesty in right of a province" does not include an employee or agent of Her Majesty in right of a province whose duties and functions as such an employee or agent are restricted to work in a university, a college or other educational institution or a hospital.

"fiscal year"
« *exercice* »

"fiscal year" means the fiscal year of the foundation as determined in accordance with its by-laws.

"foundation"
« *fondation* »

"foundation" means the Canada Foundation for Innovation established by section 3.

"member"
« *membre* »

"member" means a person who is a member of the foundation.

"Minister"
« *ministre* »

"Minister" means the Minister of Industry.

"non-profit
organization"
« *organisation
sans but
lucratif* »

"non-profit organization" means a corporation, society, association, organization or body no part of whose income is payable to or otherwise available for the personal benefit of any of its proprietors, members or shareholders.

"research"
« *recherche* »

"research" means the attempt by careful scientific or technical enquiry, experimentation, study, observation, analysis and recording to discover new facts, knowledge and information, to develop new interpretations of facts, knowledge or information, or to discover new means of applying existing knowledge, relating to

- (a) a science;
- (b) health;
- (c) engineering; or
- (d) the environment.

"research
infrastructure"
« *infrastructur
e de recherche*
»

"research infrastructure" means equipment, specimens, scientific collections, computer software, information databases, communications linkages and other intangible property used or to

be used primarily for carrying on research, including housing and installations essential for the use and servicing of those things.

"special
resolution"
« *résolution
extraordinaire*
»

"special resolution" of the members means a resolution passed by a majority of not less than two thirds of the votes cast by the members who voted on the resolution at a meeting of the members or signed by all the members entitled to vote on the resolution.

Establishment of Foundation

Foundation
incorporated

3. A corporation without share capital is established to be called the Canada Foundation for Innovation consisting of the members of the foundation and the directors.

Foundation not
agent of Her
Majesty

4. The foundation is not an agent of Her Majesty.

Objects and
purposes of
foundation

5. The objects and purposes of the foundation are to make grants to eligible recipients for eligible projects to increase the capability of carrying on high quality research in Canada.

Capacity

6. For the purposes of carrying out its objects and purposes, the foundation has the capacity and, subject to this Part, the rights, powers and privileges of a natural person.

Head office

7. The head office of the foundation shall be in the National Capital Region described in the schedule to the *National Capital Act*.

*Canada
Corporations
Act*

8. (1) The *Canada Corporations Act*, chapter C-32 of the Revised Statutes of Canada, 1970, does not apply to the foundation.

*Canada Business
Corporations
Act*

(2) The following provisions of the *Canada Business Corporations Act* apply, with such modifications as the circumstances require, to the foundation and its directors, members, officers and employees as if the foundation were a corporation incorporated under that Act, this Part were its articles of incorporation and its members were its shareholders:

(a) section 16 (by-law not required to confer powers on foundation, restriction on powers of foundation, and validity of acts of foundation);

(b) subsection 21(1) (access to foundation's records by members and creditors);

(c) section 23 (corporate seal not needed to validate instrument);

(d) subsections 103(1) to (4) (powers of directors to make and amend by-laws, members' approval of by-laws and effective date of by-laws);

(e) subsection 105(1) (qualifications of directors);

(f) subsection 108(2) (resignation of director);

(g) section 110 (right of director to attend members' meeting and statements by retiring directors);

(h) subsections 114(1) and (2) (place of directors' meetings and quorum);

(i) section 116 (validity of acts of directors and officers);

(j) section 117 (validity of directors' resolutions not passed at meeting);

(k) section 120 (conflict of director's interests);

(l) subsection 122(1) (duty of care of directors and officers);

- (m) section 123 (directors' dissents);
- (n) subsections 124(1) to (4) (indemnification of directors and insurance for director's liability);
- (o) section 155 (financial statements);
- (p) section 158 (approval of financial statements by directors);
- (q) section 159 (sending financial statements to members before annual meeting and penalty for failure);
- (r) section 161 (qualifications of auditor);
- (s) section 168 (rights and duties of auditor);
- (t) section 169 (examinations by auditor);
- (u) section 170 (right of auditor to information);
- (v) subsections 171(3) to (9) (duty and administration of audit committee and penalty for failure to comply);
- (w) section 172 (qualified privilege in defamation for auditor's statements); and
- (x) subsections 257(1) and (2) (certificates of foundation as evidence).

Description
with cross-
references

(3) The descriptive words in parentheses that follow the reference to a provision of the *Canada Business Corporations Act* in subsection (2) form no part of that subsection but are inserted for convenience of reference only.

Directors

Board of
directors

9. (1) There shall be a board of directors of the foundation which shall supervise the management of the business and affairs of the foundation and, subject to the by-laws of the foundation, exercise all its powers.

Appointment of
directors

(2) Subject to subsection (3), the board consists of

(a) a Chairperson of the board, who is resident in Canada, appointed by the Governor in Council on the recommendation of the Minister;

(b) six persons, who are resident in Canada, appointed by the Governor in Council on the recommendation of the Minister; and

(c) eight persons, who are resident in Canada and none of whom are employees or agents of Her Majesty in right of Canada or in right of a province or members of the Senate, the House of Commons or the legislature of a province, appointed by the members in accordance with the by-laws of the foundation.

Initial
organization

(3) Where the Chairperson is appointed before directors are appointed under paragraph (2)(c), the Chairperson and such other directors, if any, as may have been appointed under paragraph (2)(b) constitute the board until directors are appointed under paragraph (2)(c) and may

(a) undertake the organization of the foundation including the appointment of officers and employees;

(b) make banking arrangements for the foundation;

(c) enact organizational by-laws for the foundation; and

(d) receive on behalf of the foundation any moneys paid to the foundation.

Limitation on
initial
organization

(4) Until directors are appointed under paragraph (2)(c), the board shall not make any grants from or out of the funds of the foundation or enter into any agreements or arrangements, or review any applications, for or in respect of grants to be made from or out of the funds of the foundation.

Foundation not
owned by Crown

(5) The operation of the foundation under subsection (3) by the Chairperson and directors, if any, appointed under paragraph (2)(b) shall not, notwithstanding subsection 83(2) of the *Financial Administration Act*, result in the foundation being considered, for

the purposes of Part X of that Act or for any other purpose, to be wholly owned directly by Her Majesty in right of Canada.

Terms of office
of Governor in
Council
appointees

10. (1) The Chairperson and the directors appointed under paragraph 9(2)(b) shall be appointed to hold office during pleasure for terms of three years but, except where they cease to be directors under subsection (4), they shall continue to hold office until their successors are appointed.

Terms of office
of other
directors

(2) The directors appointed under paragraph 9(2)(c) by the members shall hold office for terms of three years, but they may be removed from office by a special resolution of the members and, except where they cease to be directors under subsection (4), they shall continue to hold office until their successors are appointed.

Additional
terms of office

(3) A director is eligible to be reappointed for one or more additional terms of office.

Ceasing to be
director

(4) A director ceases to be a director when

(a) the director

(i) dies,

(ii) resigns,

(iii) ceases to be resident in Canada, or

(iv) becomes disqualified under subsection 105(1) of the *Canada Business Corporations Act*;

(b) in the case of a director appointed by the Governor in Council, the appointment is terminated by the Governor in Council before the expiry of the term of the appointment; or

(c) in the case of a director appointed by the members, the director

(i) is removed from office before the expiry of the term of the appointment by a special resolution of the members,

(ii) is appointed to the Senate,

(iii) is elected to the House of Commons or the legislature of a province, or

(iv) becomes an employee or agent of Her Majesty in right of Canada or in right of a province.

Director
representation

11. The appointment of directors shall be made

(a) to ensure, as far as possible, that at all times approximately one half of the directors will be representative of persons engaged in research and one half representative of the business community or non-profit organizations; and

(b) having regard to the desirability of having directors drawn from various regions of Canada.

Remuneration
for directors

12. (1) From and out of the funds of the foundation, the directors may be paid remuneration for acting as directors in amounts determined by the board not exceeding maximum amounts prescribed by regulation and they may be reimbursed for any reasonable out-of-pocket expenses incurred by them in performing their duties or attending meetings of the board or of members.

Directors not
to profit

(2) Except as provided in subsection (1), no director shall profit or gain any income or acquire any property from the foundation or its activities.

Members

Membership

13. (1) There shall be fifteen members of the foundation.

First members

(2) Upon this Act receiving royal assent, the Governor in Council, on the recommendation of the Minister, shall without delay appoint six persons as members of the foundation.

First meeting

(3) As soon as possible after the appointment of the six members under subsection (2), the Minister shall make arrangements for a first meeting of those members.

Appointing
balance of
first members

(4) At the first meeting of the six members appointed under subsection (2), or at a meeting held as soon after that meeting as possible, those members shall appoint nine further members of the foundation.

Appointment of
successor
members

(5) The appointment of a person as a member to succeed a person whose term as a member expires shall be made by the members at a general meeting of members.

Filling
vacancies

(6) The appointment of a person as a member to fill a vacancy in the membership caused by a person ceasing to be a member before the member's term as a member expires shall be made by the members at a general meeting of members.

Eligibility for
members

(7) A person is not eligible to be appointed a member if the person

(a) is a member of the Senate, the House of Commons or the legislature of a province;

(b) is an employee or agent of Her Majesty in right of Canada or in right of a province;

(c) is a director;

(d) does not reside in Canada; or

(e) does not meet the qualifications set out in subsection 105(1) of the *Canada Business Corporations Act*.

Terms of
members

14. (1) Subject to subsection (2), the members shall be appointed to hold office for terms of five years, but they may be removed from office by a special resolution of the members and, except where they cease to be members under subsection (5), they shall continue to hold office until their successors are appointed.

Terms of first
members

(2) Of the members appointed under subsections 13(2) and (4), one-third shall be appointed for terms of five years, one-third shall be appointed for four years and one-third shall be appointed for three years but, except where they cease to be members under subsection (5), they shall continue to hold office until their successors are appointed.

Additional
terms of office

(3) A member is eligible to be reappointed for one or more terms of office.

Replacements

(4) A person appointed to fill a vacancy in the office of a member who has ceased to hold the office before the expiry of the member's term of office shall be appointed to hold office for the unexpired portion of that term.

Ceasing to be
member

(5) A member ceases to be a member when the member

(a) dies;

(b) resigns;

(c) is appointed to the Senate;

(d) is elected to the House of Commons or to the legislature of a province;

(e) is appointed a director;

(f) becomes an employee or agent of Her Majesty in right of Canada or in right of a province;

(g) no longer meets the qualifications set out in subsection 105(1) of the *Canada Business Corporations Act*; or

(h) is removed from office by a special resolution of the members.

Member
representation

15. The appointment of members shall be made

(a) to ensure, as far as possible, that at all times approximately one half of the members will be representative of persons engaged in research and one half representative of the business community or non-profit organizations; and

(b) having regard to the desirability of having members drawn from various regions of Canada.

No remuneration
for members

16. (1) The members are not entitled to be paid any remuneration for acting as members but they may be reimbursed for any reasonable out-of-pocket expenses incurred by them in performing their duties or attending meetings of the members.

Members not to
profit

(2) Except as provided in subsection (1), no member shall profit or gain any income or acquire any property from the foundation or its activities.

Staff

Staff

17. (1) The board may appoint such officers, employees and agents of the foundation as they consider necessary to carry out the objects and purposes of the foundation.

Designation of
offices

(2) Subject to the by-laws of the foundation, the board may designate the offices of the foundation and specify the duties and functions of each office.

Directors not
employees or
agents

(3) Directors and members are not eligible to be employed as employees or agents of the foundation.

Not part of
public service
of Canada

(4) The directors, members, officers, employees and agents of the foundation are not, because of being a director, member, officer, employee or agent of the foundation, part of the public service of Canada.

Operations

Administrative
expenses

18. From and out of its funds, the foundation may pay salaries and wages of its officers and employees, rent for its accommodation, remuneration for its directors and agents, reimbursement to the directors and members for their reasonable out-of-pocket expenses, and other costs and expenses of carrying on the business of the foundation.

Assistance for
eligible
projects

19. (1) From and out of its funds, the foundation may make grants to eligible recipients to be used by them solely for the purposes of eligible projects in accordance with any terms and conditions specified by the foundation in respect of the grants.

Limits on
financial
assistance

(2) In making grants to an eligible recipient in respect of an eligible project, the foundation shall not acquire any interest, whether through the acquisition of share capital, a partnership interest or otherwise, in any research infrastructure acquired by the recipient for the project.

Agreements
relating to
assistance

(3) For the purpose of assisting an eligible recipient in completing an eligible project, the foundation may enter into agreements with the recipient respecting, among other things, the manner in which the foundation will make advances in respect of a grant to the recipient, when those advances will be made and any terms or conditions on which the grant will be made.

Donations to
foundation

20. (1) Subject to subsection (3), the foundation may accept donations of money.

Use of
donations

(2) All money donated to the foundation, and any income arising from the investment of the money, shall be used by the foundation in carrying out its objects and purposes.

Conditional
donations

(3) The foundation shall not accept a donation of money that is made on the condition that the foundation use the money or any income arising from the investment of the money for any purpose that is not within the objects and purposes of the foundation.

Exception

(4) Subsection (3) does not apply where the conditions of a donation of money merely restrict or direct the manner of investing the money until it can be used to make grants to eligible recipients for eligible projects.

Investment
policies

21. The board shall establish investment policies, standards and procedures that a reasonably prudent person would apply in respect of a portfolio of investments to avoid undue risk of loss and obtain a reasonable return, having regard to the foundation's obligations and anticipated obligations.

Investments

22. (1) Subject to any conditions of a donation restricting the investment of the money donated until it can be used to make grants to eligible recipients for eligible projects, the foundation shall invest its funds, and reinvest any income from those funds, in

accordance with the investment policies, standards and procedures established by the board.

Restriction

(2) The foundation shall not invest its funds in, or acquire any right in any property of, an eligible recipient that has received, is about to receive or has applied for a grant from the foundation.

Incorporation
of other
corporations

(3) The foundation shall not cause any corporation to be incorporated or participate in the incorporation of a corporation or become a partner in a partnership.

Control of
corporation

(4) The foundation shall not carry on any business for gain or profit otherwise than in the investment of its funds, and shall not hold or acquire a controlling interest in any corporation or enterprise.

Borrowing
prohibited

23. (1) The foundation shall not borrow money, issue any debt obligations or securities, give any guarantees to secure a debt or other obligation of another person or mortgage, pledge or otherwise encumber property of the foundation.

Real property

(2) The foundation shall not purchase or accept a donation of real property.

Delegation by
directors

24. (1) Subject to subsection (2), the board may delegate to the Chairperson, a committee of directors or an officer of the foundation any of the powers of the board.

Restrictions on
delegation

(2) The board shall not delegate any power or right of the board

(a) to enact, amend or repeal by-laws;

(b) to authorize the making of grants to eligible recipients;

(c) to appoint directors to, or fill vacancies on, a committee of the board;

(d) to appoint officers of the foundation or fix their remuneration;

(e) to accept donations;

(f) to approve an annual financial statement or a report of the foundation; or

(g) to submit to the members any matter requiring the approval of the members.

Financial Matters and Audits

Books of account

25. (1) The board shall cause books of account and other records to be kept and shall establish financial and management controls, information systems and management practices that will ensure that the business and affairs of the foundation are carried on, and the financial, human and physical resources of the foundation are managed, effectively, efficiently and economically.

Information systems

(2) The books of account and other records of the foundation shall be maintained in such a way that they will show that the assets of the foundation are properly protected and controlled and that its business and affairs are carried on in compliance with this Part and the regulations, and in particular in such a way that they will show

(a) descriptions and book values of all investments of the foundation; and

(b) the eligible recipients who have received, or are about to receive, grants from the foundation in respect of eligible projects, the nature and extent of the projects and the amount of the grants.

Auditor

26. (1) The members, at their first meeting in each fiscal year, shall appoint an auditor for the foundation for the fiscal year and fix, or authorize the board to fix, the auditor's remuneration.

Qualifications
of auditor

(2) The auditor shall be

(a) a natural person who

(i) is a member in good standing of an institute or association of accountants incorporated by or under an Act of the legislature of a province,

(ii) has at least five years experience at a senior level in carrying out audits,

(iii) is ordinarily resident in Canada, and

(iv) is independent of the board, the directors and the officers of the foundation; or

(b) a firm of accountants at least one of the members or employees of which who are jointly designated by the board and the firm to conduct on behalf of the firm the audit of the books and records of the foundation meet the qualifications set out in paragraph (a).

Continuation of
auditor

(3) If an auditor is not appointed at the first meeting of the members in a fiscal year, the auditor for the preceding fiscal year continues in office until a successor is appointed.

Removal of
auditor

(4) The members may by a special resolution of the members remove an auditor from office.

Ceasing to hold
office

(5) An auditor ceases to hold office when the auditor

(a) dies;

(b) resigns; or

(c) is removed from office under subsection (4).

Replacement

(6) The members, at a meeting of the members, may appoint an auditor to fill any vacancy in the office of the auditor, but if the members fail to fill the vacancy at a meeting, or if no meeting of the members is convened without delay after the vacancy occurs, the board may appoint an auditor.

Unexpired term

(7) An auditor appointed to fill a vacancy in the office holds office for the unexpired term of the predecessor in the office.

Auditor's
report

27. (1) The auditor for a fiscal year shall, as soon as possible after the end of the fiscal year, complete the audit of the books and records of the foundation and submit a report of the audit to the members.

Consideration
of report

(2) A meeting of the members shall be convened to consider the report of the auditor for a fiscal year and at the meeting the members shall by resolution receive the report.

Audit committee

28. (1) The board shall appoint an audit committee consisting of not fewer than three directors and fix the duties and functions of the committee.

Internal audit

(2) In addition to any other duties and functions it is required to perform, the audit committee shall cause internal audits to be conducted to ensure compliance by the officers and employees of the foundation with management and information systems and controls established by the board.

Reports and Consideration of Reports

Annual reports

29. (1) The foundation shall, within three months after the end of each fiscal year, prepare an annual report in both official languages of its activities during the year and include in the report

(a) its financial statement for the year as approved by the board;

(b) its balance sheet as at the end of the year including a detailed statement of its investment portfolio as at the end of the year; and

(c) the report of the auditor for the year in respect of the audit of the books and records of the foundation for the year, the auditor's certificates respecting the financial statement and balance sheet and any other reports of the auditor respecting the financial circumstances of the foundation in the year.

Consideration
of report by
members

(2) Before the annual report of the foundation for a fiscal year is distributed to the public, it shall be approved by the board and by the members at a meeting of the members.

Distribution of
report

(3) After the annual report of the foundation for a fiscal year is approved as required under subsection (2), the report shall be made public in accordance with the by-laws of the foundation and a copy shall be sent to the Minister, who shall cause a copy of the report to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the Minister receives it.

Public meeting

30. (1) After it publishes its annual report for a fiscal year, the foundation shall convene a public meeting at a city in Canada selected by the board to consider the report and other matters relating to its activities during the year.

Notice of
meeting

(2) At least thirty days before the date of a meeting convened under subsection (1) to consider the foundation's annual report for a fiscal year, the foundation shall give notice of the time and place of the meeting in accordance with the by-laws of the foundation.

Winding Up

Property to be
divided

31. If the foundation is wound up or dissolved, all its property remaining after all its debts and obligations have been satisfied shall be liquidated and the moneys arising from that liquidation shall be distributed among all the eligible recipients that have received grants from the foundation and that are, as of the day the distribution begins, still carrying on research, to be used by them for the purpose of that research, in such a way that each such recipient receives an amount that is the same proportion of those moneys that the total grants received by that recipient from the foundation is of the total of all grants that have been made by the foundation to all such eligible recipients.

General

Both official
languages to be
used

32. The foundation shall offer its services in both official languages.

By-law relating
to conflict of
interest

33. The foundation shall include in its by-laws provisions that

(a) entitle an eligible recipient that has made an application for a grant from the foundation to request the board to make a ruling as to the possible conflict of interest of a director in the consideration or disposal of the application; and

(b) establishing procedures to be followed by the board in responding to the request and giving the ruling.

Regulations

34. The Governor in Council may make regulations respecting the maximum remuneration payable to the directors.

PART II

COWICHAN TRIBES TOBACCO TAX

Definitions

35. The definitions in this section apply in this Part.

"British
Columbia"

« *Colombie-
Britannique* »
<?[cn]>

"British Columbia" means Her Majesty in right of British Columbia.

"consumer"
« *consommateur* »
»

"consumer" means an Indian or any band, within the meaning of the *Indian Act*, who acquires tobacco on a reserve for the use or consumption of the Indian or the band, or for the use or consumption by others at the expense of the Indian or the band, or on behalf of, or as the agent for, a principal who desires to acquire the tobacco for use or consumption by the Indian or the band or other persons at the expense of that Indian or that band.

"council"
« *conseil* »

"council", in relation to the Cowichan Tribes, has the same meaning as the expression "council of the band" in subsection 2(1) of the *Indian Act*.

"Cowichan
Tribes"
« *tribus
Cowichan* »

"Cowichan Tribes" means the Cowichan Band of Indians referred to in Order in Council P.C. 1973-3571.

"direct tax"
« *taxe directe* »
»

"direct tax" means a tax that the legislature of a province may levy pursuant to class 2 of section 92 of the *Constitution Act, 1867*.

"Minister"
« *ministre* »

"Minister" means the Minister of Finance.

"reserve"
« *réserve* »

"reserve" means the reserves, within the meaning of subsection 2(1) of the *Indian Act*, set apart by Her Majesty for the use and benefit of the Cowichan Tribes.

"tobacco"
« *tabac* »

"tobacco" means tobacco and tobacco products in any form in which they may be consumed by a consumer, and includes snuff and raw leaf tobacco.

Tax

36. (1) Notwithstanding section 87 of the *Indian Act* or any other Act of Parliament or any Act of the legislature of a province, the council may make a by-law imposing a direct tax on consumers of tobacco, at a rate prescribed in the by-law.

Application of
section 87 of
the *Indian Act*

(2) For greater certainty, except with respect to a tax imposed by a by-law made under subsection (1), nothing in that subsection affects the application of section 87 of the *Indian Act*.

Indian moneys

(3) Moneys raised pursuant to a tax referred to in subsection (1) are not Indian moneys within the meaning of subsection 2(1) of the *Indian Act*.

Expenditures

(4) Expenditures made out of moneys raised pursuant to a tax referred to in subsection (1) must be made under the authority of a resolution approved by a majority of the councillors of the Cowichan Tribes present at a meeting of the council duly convened.

By-law

(5) A by-law made under subsection (1)

(a) shall be valid only if approved by a majority of the councillors of the Cowichan Tribes present at a meeting of the council duly convened;

(b) shall not come into force before it is approved by the Minister;

(c) shall, except where an agreement has been entered into pursuant to subsection 39(1),

(i) provide the method of calculating the tax,

(ii) set out the rate at which the tax is imposed,

(iii) provide for the time and manner in which the tax that is required to be collected by the vendor of the tobacco is to be remitted to the council, and

(iv) provide for the form of, and the information to be contained in, the books and records to be kept pursuant to subsection 38(1);

(d) shall, where an agreement has been entered into pursuant to subsection 39(1), provide that the rate of tax is the rate provided for in the *Tobacco Tax Act*, R.S.B.C. 1979, c. 404, as amended from time to time;

(e) may apply to one or more kinds of tobacco and may provide for different rates for different kinds of tobacco;

(f) may be made with respect to any matter arising out of or ancillary to the exercise of powers under this section; and

(g) is not subject to the *Statutory Instruments Act*.

Supreme Court
of British
Columbia

37. (1) Except where an agreement has been entered into pursuant to subsection 39(1), where a person who is required to remit an amount of tax collected pursuant to a by-law made under section 36 fails to remit that amount or where a person fails to pay an amount pursuant to subsection (2), the Cowichan Tribes may take proceedings before the Supreme Court of British Columbia against that person to recover the amount.

Failure to
collect

(2) Except where an agreement has been entered into pursuant to subsection 39(1), where a person who is required to collect an amount of tax pursuant to this Part fails to collect the amount, that person shall pay to the council, at the same time and in the same manner as the person would have been required to remit if the failure had not occurred, an amount equal to the amount of tax the person failed to collect.

Proof of by-law

(3) A copy of a by-law made under this Part is, if it is certified to be a true copy by the Minister or a person authorized by the Minister, evidence that the by-law was duly made by the council and approved by the Minister, without proof of the signature or the authorization of the person, and no such by-law is invalid by reason of any defect in form.

Publication of
by-law

(4) The council shall, on demand, provide a copy of any by-law made under this Part and shall publish every such by-law in a newspaper having general circulation in the place where the tax applies.

Books and
records

38. (1) Every person who is required pursuant to this Part to collect an amount of tax shall keep books and records of account in such form and containing such information as will enable the taxes payable under this Part to be determined.

Inspection of
books

(2) A person authorized by the council (in this section referred to as the authorized person) may, at all reasonable times, for any purpose related to the administration or enforcement of this Part,

(a) inspect, audit or examine the books and records required to be kept under this Part; and

(b) examine any property situated on a reserve that is in an inventory of a person required to keep books and records pursuant to this Part and any property on the reserve an examination of which may assist in determining the accuracy of the inventory of the person or in ascertaining the information that is or should be in the books or records of the person or any amount that the person was required to collect under this Part.

Authorized
person

(3) For the purposes of paragraphs (2)(a) and (b), the authorized person may

(a) enter any premises or place on the reserve, except a dwelling-house, where any books or records are or should be kept; and

(b) require the person referred to in paragraph (2)(b) to provide all reasonable assistance and to answer all proper questions relating to the administration and enforcement of this Part.

Agreement with
province

39. (1) The Cowichan Tribes may enter into an agreement with British Columbia respecting the collection of tax imposed by a by-law made under section 36.

Collection
where agreement

(2) Where a tax has been imposed by a by-law made under section 36 and an agreement entered into with the Government of British Columbia for collection of the tax, British Columbia may collect the tax in accordance with the agreement and may take proceedings to collect the tax as if it were imposed under the *Tobacco Tax Act*, R.S.B.C. 1979, c. 404, as amended from time to time.

Rights of
Appeal

(3) Where an agreement has been entered into, any person who is required to pay, collect or remit the tax collected by British Columbia, or who is liable to pay any amount or penalty with respect to such tax, may take any proceedings with respect to the payment, collection or remittance or with respect to the amount of penalty as if the tax were imposed under the *Tobacco Tax Act*, R.S.B.C. 1979, c. 404, as amended from time to time.

Exception

(4) For greater certainty, subsection (3) does not apply to proceedings challenging the validity of a tax imposed by a by-law made under section 36.

Payment of
security by
wholesaler

(5) For greater certainty, where an agreement has been entered into, British Columbia may collect security from dealers, within the meaning of section 1 of the *Tobacco Tax Act*, R.S.B.C. 1979, c. 404, as amended from time to time, who are situated outside a

reserve with respect to the tax imposed by a by-law made under this Part.

Application of
provincial
legislation

(6) For the purposes of subsections (2) and (3), the provisions of the *Tobacco Tax Act*, R.S.B.C. 1979, c. 404, as amended from time to time, apply for the purposes of this Part with such modifications as the circumstances require.

Reference in
Tobacco Tax Act

(7) For greater certainty, a reference in the *Tobacco Tax Act*, R.S.B.C. 1979, c. 404, as amended from time to time,

(a) to the tax in that Act shall be read as a reference to the tax imposed by the by-law;

(b) to British Columbia or the provincial government shall be read as a reference to the council or the Cowichan Tribes, as the circumstances require;

(c) to a consumer in that Act shall be read as a reference to a consumer as defined in this Part; and

(d) to that Act shall be read as a reference to this Part.

Inclusion of
provisions

(8) For greater certainty, the *Tobacco Tax Act*, R.S.B.C. 1979, c. 404, referred to in subsection (6) includes all provisions of that Act relating to

(a) suspension or cancellation of permits;

(b) payment of security by dealers;

(c) payment of remuneration to dealers;

(d) powers of inspection;

(e) audit and assessment;

(f) collection remedies;

(g) injunctions;

- (h) imposition of penalties and interest;
- (i) seizure by officials;
- (j) claims for bad debt refunds; and
- (k) subject to subsection (4), rights of appeal.

Confidentiality

40. No person shall provide access to information obtained in the administration of this Part or any by-law made under this Part that may directly or indirectly identify a person except

- (a) for the purposes of administering or enforcing this Part or a by-law made under this Part;
- (b) for the purposes of any legal proceedings;
- (c) to the person to whom the information relates;
- (d) to the council and any officer of the tax administration of the Cowichan Tribes who is authorized by the council, for the purposes of formulating or implementing the fiscal policy of the Cowichan Tribes; and
- (e) to any person legally entitled to it under any Act of Parliament or of the legislature of a province, solely for the purposes for which that person is entitled to it.

Offence and penalty

41. Every person who contravenes this Part or a by-law made under this Part is guilty of an offence and liable on summary conviction to a fine of not more than \$50,000 or to imprisonment for a term of not more than six months, or to both.

Conditional amendment - Bill C-25

42. If Bill C-25, introduced in the second session of the thirty-fifth Parliament and entitled *An Act respecting regulations and other documents, including the review, registration, publication and parliamentary scrutiny of regulations and other documents, and to make consequential and related amendments to other Acts*, is assented to, then, on the later of the coming into force of section 1 of that Act and paragraph 36(5)(g) of this Act, paragraph 36(5)(g) of this Act is replaced by the following:

(g) is not subject to the *Regulations Act*.

PART III

COWICHAN TRIBES TOBACCO PRODUCTS TAX

Definitions

43. The definitions in this section apply in this Part.

"council"
« *conseil* »

"council", in relation to the Cowichan Tribes, has the same meaning as the expression "council of the band" in subsection 2(1) of the *Indian Act*.

"Cowichan
Tribes"
« *tribus
Cowichan* »

"Cowichan Tribes" means the Cowichan Band of Indians referred to in Order in Council P.C. 1973-3571.

"direct tax"
« *taxe directe*
»

"direct tax" means a tax that the legislature of a province may levy pursuant to class 2 of section 92 of the *Constitution Act, 1867*.

"Minister"
« *ministre* »

"Minister" means the Minister of Finance.

"reserve"
« *réserve* »

"reserve" means the reserves, within the meaning of subsection 2(1) of the *Indian Act*, set apart by Her Majesty for the use and benefit of the Cowichan Tribes.

"tobacco
product"
« *produit du
tabac* »

"tobacco product" means

(a) every article made by a tobacco manufacturer from raw leaf tobacco, within the meaning assigned to those expressions by section 6 of the *Excise Act*, by any process whatever, and includes cigarettes and tobacco sticks, as defined in that section, and snuff;

(b) the leaves and stems of the tobacco plant if they have been processed further than drying and sorting; and

(c) cigars, as defined in that section.

Tax

44. (1) Notwithstanding section 87 of the *Indian Act*, the council may make a by-law imposing a direct tax in respect of the sale of tobacco products on a reserve to be collected pursuant to an agreement entered into under subsection 46(1).

Application of
section 87 of
the *Indian Act*

(2) For greater certainty, except with respect to a tax imposed by a by-law made under subsection (1), nothing in that subsection affects the application of section 87 of the *Indian Act*.

Indian moneys

(3) Moneys raised pursuant to a tax referred to in subsection (1) are not Indian moneys within the meaning of subsection 2(1) of the *Indian Act*.

Sale on reserve

(4) For the purposes of this Part, a tobacco product is sold on a reserve if tax under section 165 of the *Excise Tax Act* is not payable in respect of the sale (or would not be payable if the purchaser were an Indian within the meaning assigned by subsection 2(1) of the *Indian Act* and section 47 did not apply to the sale) because of the connection of the sale with the reserve and the application of section 87 of the *Indian Act*.

Expenditures

(5) Expenditures made out of moneys raised pursuant to a tax referred to in subsection (1) must be made under the authority of a resolution approved by a majority of the councillors of the Cowichan Tribes present at a meeting of the council duly convened.

By-law

45. (1) A by-law made under subsection 44(1)

(a) shall be valid only if approved by a majority of the councillors of the Cowichan Tribes present at a meeting of the council duly convened;

(b) shall not come into force before it is approved by the Minister and an agreement has been entered into under subsection 46(1);

(c) shall provide that the rate of tax on the sale of tobacco products is the rate at which tax is imposed under subsection 165(1) of the *Excise Tax Act*, as amended from time to time;

(d) may be made with respect to any matter arising out of or ancillary to the exercise of powers under this section; and

(e) is not subject to the *Statutory Instruments Act*.

Proof of by-law

(2) A copy of a by-law made by the council under this Part, if it is certified to be a true copy by the Minister or a person authorized by the Minister, is evidence that the by-law was duly made by the council and approved by the Minister, without proof of the signature or the authorization of the person, and no such by-law is invalid by reason of any defect in form.

Publication of
by-law

(3) The council shall, on demand, provide a copy of any by-law made under this Part and shall publish every such by-law in a newspaper having general circulation in the place where the tax applies.

Agreement with
Government of
Canada

46. (1) Where the council has made a by-law imposing a tax under this Part, the Minister, with the approval of the Governor in Council, may on behalf of the Government of Canada enter into an agreement with the council pursuant to which the Government of Canada will collect the tax on behalf of the Cowichan Tribes and will make payments to the council in respect of the tax so collected in accordance with the terms and conditions of the agreement.

Advance payment

(2) Where an agreement has been entered into, the Minister may make advance payments to the council out of the Consolidated Revenue Fund on account of any amount that may become payable to the Cowichan Tribes pursuant to the agreement.

Rules where agreement

(3) Where an agreement has been entered into,

(a) Part IX of the *Excise Tax Act* (except paragraph 240(1)(a) of that Act) applies for the purposes of a by-law made under subsection 44(1) as if the tax were imposed under subsection 165(1) of that Act;

(b) where a person does anything to satisfy a requirement of the by-law that would satisfy a corresponding requirement of Part IX of the *Excise Tax Act* if the tax imposed under the by-law were imposed under subsection 165(1) of that Act, the requirement of the by-law is deemed to have been satisfied;

(c) for greater certainty, every person who is a registrant for the purposes of Part IX of the *Excise Tax Act* is a registrant for the purposes of the by-law; and

(d) any proceeding that could be taken under any other Act of Parliament in respect of the tax imposed under subsection 165(1) of the *Excise Tax Act* may be taken in respect of the tax imposed under the by-law.

No tax payable

47. No tax is payable under subsection 165(1) of the *Excise Tax Act* with respect to a supply in respect of which a tax referred to in subsection 44(1) is payable.

Confidentiality

48. (1) No person shall provide access to information obtained in the administration of this Part or any by-law made under this Part that may directly or indirectly identify a person except

(a) for the purposes of administering or enforcing this Part or Part IX of the *Excise Tax Act* or a by-law made under this Part;

(b) for any purpose for which taxpayer information may be provided under Part IX of the *Excise Tax Act*;

(c) for the purposes of any legal proceedings;

(d) to the person to whom the information relates;

(e) to the council and any officer of the tax administration of the Cowichan Tribes who is authorized by the council, for the purposes of formulating or implementing the fiscal policy of the Cowichan Tribes;

(f) to an official of the Department of Finance for the purposes of formulating or implementing fiscal policy; and

(g) to any person legally entitled to it under any Act of Parliament or of the legislature of a province, solely for the purposes for which that person is entitled to it.

Offence in
relation to
information

(2) Every person to whom information has been provided for a particular purpose under subsection (1) and who for any other purpose knowingly uses, provides to any person, allows the provision to any person of, or allows any person access to, that information is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000 or to imprisonment for a term of not more than twelve months, or to both.

Offence and
penalty

49. Every person who contravenes this Part, except subsection 48(1), or a by-law made under this Part is guilty of an offence and liable on summary conviction to a fine of not more than \$25,000 or to imprisonment for a term of not more than twelve months, or to both.

Conditional
amendment -
Bill C-25

50. If Bill C-25, introduced in the second session of the thirty-fifth Parliament and entitled *An Act respecting regulations and other documents, including the review, registration, publication and parliamentary scrutiny of regulations and other documents, and to make consequential and related amendments to other Acts*, is assented to, then, on the later of the coming into force of section 1 of that Act and paragraph 45(1)(e) of this Act, paragraph 45(1)(e) of this Act is replaced by the following:

(e) is not subject to the *Regulations Act*.

PART IV

WESTBANK FIRST NATION TOBACCO PRODUCTS TAX

Definitions

51. The definitions in this section apply in this Part.

"council"
« *conseil* »

"council", in relation to the Westbank First Nation, has the same meaning as the expression "council of the band" in subsection 2(1) of the *Indian Act*.

"direct tax"
« *taxe directe*
»

"direct tax" means a tax that the legislature of a province may levy pursuant to class 2 of section 92 of the *Constitution Act, 1867*.

"Minister"
« *ministre* »

"Minister" means the Minister of Finance.

"reserve"
« *réserve* »

"reserve" means the reserves, within the meaning of subsection 2(1) of the *Indian Act*, set apart by Her Majesty for the use and benefit of the Westbank First Nation.

"tobacco
product"
« *produit du
tabac* »

"tobacco product" means

(a) every article made by a tobacco manufacturer from raw leaf tobacco, within the meaning assigned to those expressions by section 6 of the *Excise Act*, by any process whatever, and includes cigarettes and tobacco sticks, as defined in that section, and snuff;

(b) the leaves and stems of the tobacco plant if they have been processed further than drying and sorting; and

(c) cigars, as defined in that section.

"Westbank First
Nation"
« *première
nation de
Westbank* »

"Westbank First Nation" means the Westbank Band of Indians referred to in Order in Council P.C. 1973-3571.

Tax

52. (1) Notwithstanding section 87 of the *Indian Act*, the council may make a by-law imposing a direct tax in respect of the sale of tobacco products on a reserve to be collected pursuant to an agreement entered into under subsection 54(1).

Application of
section 87 of
the *Indian Act*

(2) For greater certainty, except with respect to a tax imposed by a by-law made under subsection (1), nothing in that subsection affects the application of section 87 of the *Indian Act*.

Indian moneys

(3) Moneys raised pursuant to a tax referred to in subsection (1) are not Indian moneys within the meaning of subsection 2(1) of the *Indian Act*.

Sale on reserve

(4) For the purposes of this Part, a tobacco product is sold on a reserve if tax under section 165 of the *Excise Tax Act* is not payable in respect of the sale (or would not be payable if the purchaser were an Indian within the meaning assigned by subsection 2(1) of the *Indian Act* and section 55 did not apply to the sale) because of the connection of the sale with the reserve and the application of section 87 of the *Indian Act*.

Expenditures

(5) Expenditures made out of moneys raised pursuant to a tax referred to in subsection (1) must be made under the authority of a resolution approved by a majority of the councillors of the Westbank First Nation present at a meeting of the council duly convened.

By-law

53. (1) A by-law made under subsection 52(1)

(a) shall be valid only if approved by a majority of the councillors of the Westbank First Nation present at a meeting of the council duly convened;

(b) shall not come into force before it is approved by the Minister and an agreement has been entered into under subsection 54(1);

(c) shall provide that the rate of tax on the sale of tobacco products is the rate at which tax is imposed under subsection 165(1) of the *Excise Tax Act*, as amended from time to time;

(d) may be made with respect to any matter arising out of or ancillary to the exercise of powers under this section; and

(e) is not subject to the *Statutory Instruments Act*.

Proof of by-law

(2) A copy of a by-law made by the council under this Part, if it is certified to be a true copy by the Minister or a person authorized by the Minister, is evidence that the by-law was duly made by the council and approved by the Minister, without proof of the signature or the authorization of the person, and no such by-law is invalid by reason of any defect in form.

Publication of by-law

(3) The council shall, on demand, provide a copy of any by-law made under this Part and shall publish every such by-law in a newspaper having general circulation in the place where the tax applies.

Agreement with Government of Canada

54. (1) Where the council has made a by-law imposing a tax under this Part, the Minister, with the approval of the Governor in Council, may on behalf of the Government of Canada enter into an agreement with the council pursuant to which the Government of Canada will collect the tax on behalf of the Westbank First Nation and will make payments to the council in respect of the tax so collected in accordance with the terms and conditions of the agreement.

Advance payment

(2) Where an agreement has been entered into, the Minister may make advance payments to the council out of the Consolidated Revenue Fund on account of any amount that may become payable to the Westbank First Nation pursuant to the agreement.

Rules where
agreement

(3) Where an agreement has been entered into,

(a) Part IX of the *Excise Tax Act* (except paragraph 240(1)(a) of that Act) applies for the purposes of a by-law made under subsection 52(1) as if the tax were imposed under subsection 165(1) of that Act;

(b) where a person does anything to satisfy a requirement of the by-law that would satisfy a corresponding requirement of Part IX of the *Excise Tax Act* if the tax imposed under the by-law were imposed under subsection 165(1) of that Act, the requirement of the by-law is deemed to have been satisfied;

(c) for greater certainty, every person who is a registrant for the purposes of Part IX of the *Excise Tax Act* is a registrant for the purposes of the by-law; and

(d) any proceeding that could be taken under any other Act of Parliament in respect of the tax imposed under subsection 165(1) of the *Excise Tax Act* may be taken in respect of the tax imposed under the by-law.

No tax payable

55. No tax is payable under subsection 165(1) of the *Excise Tax Act* with respect to a supply in respect of which a tax referred to in subsection 52(1) is payable.

Confidentiality

56. (1) No person shall provide access to information obtained in the administration of this Part or any by-law made under this Part that may directly or indirectly identify a person except

(a) for the purposes of administering or enforcing this Part or Part IX of the *Excise Tax Act* or a by-law made under this Part;

(b) for any purpose for which taxpayer information may be provided under Part IX of the *Excise Tax Act*;

(c) for the purposes of any legal proceedings;

(d) to the person to whom the information relates;

(e) to the council and any officer of the tax administration of the Westbank First Nation who is authorized by the council, for the purposes of formulating or implementing the fiscal policy of the Westbank First Nation;

(f) to an official of the Department of Finance for the purposes of formulating or implementing fiscal policy; and

(g) to any person legally entitled to it under any Act of Parliament or of the legislature of a province, solely for the purposes for which that person is entitled to it.

Offence in
relation to
information

(2) Every person to whom information has been provided for a particular purpose under subsection (1) and who for any other purpose knowingly uses, provides to any person, allows the provision to any person of, or allows any person access to, that information is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000 or to imprisonment for a term of not more than twelve months, or to both.

Offence and
penalty

57. Every person who contravenes this Part, except subsection 56(1), or a by-law made under this Part is guilty of an offence and liable on summary conviction to a fine of not more than \$25,000 or to imprisonment for a term of not more than twelve months, or to both.

Conditional
amendment -
Bill C-25

58. If Bill C-25, introduced in the second session of the thirty-fifth Parliament and entitled *An Act respecting regulations and other documents, including the review, registration, publication and parliamentary scrutiny of regulations and other documents, and to make consequential and related amendments to other Acts*, is assented to, then, on the later of the coming into force of section 1 of that Act and paragraph 53(1)(e) of this Act, paragraph 53(1)(e) of this Act is replaced by the following:

(e) is not subject to the *Regulations Act*.

TOBACCO PRODUCTS

R.S., c. E-15

Excise Tax Act

1994, c. 29, s.
5(1)

59. (1) Subsection 23.21(3) of the *Excise Tax Act* is replaced by the following:

Quantities to
be excluded for
purpose of
subsection (2)

(3) The total quantities referred to in subsection (2) shall not include any quantity of tobacco product in respect of which the excise tax imposed under subsection 23.2(1) was repaid under section 68.161 or was not payable because of section 23.22 or 23.3.

(2) Subsection (1) is deemed to have come into force on November 29, 1996.

60. (1) The Act is amended by adding the following after section 23.21:

Definition of
"foreign duty
free shop"

23.22 (1) In this section and section 68.161, "foreign duty free shop" means a retail store that is located in a country other than Canada and that is authorized under the laws of that country to sell goods free of duties and taxes to individuals who are about to leave that country.

Exemption for
tobacco
products for
sale in foreign
duty free shop

(2) The excise tax imposed under subsection 23.2(1) is not payable in respect of tobacco products that are sold by the manufacturer or producer of the products to the operator of a foreign duty free shop for duty free sale by the operator in that shop.

(2) Subsection (1) is deemed to have come into force on November 29, 1996.

1994, c. 29, s.
6(1)

61. (1) The portion of subsection 23.31(1) of the Act before paragraph (b) is replaced by the following:

Tax on tobacco
sold to
purchaser not
authorized to
resell in
Ontario

23.31 (1) An excise tax shall be imposed, levied and collected on manufactured tobacco that is

(a) marked or stamped in accordance with a statute of the Province of Ontario to indicate that it is intended for retail sale in the province; and

1994, c. 29, s.
6(1)

(2) Subsection 23.31(2) of the Act is replaced by the following:

Where tax not
imposed

(2) Tax shall not be imposed under subsection (1) where the purchaser referred to in that subsection is a consumer in the Province of Ontario and the purchase is for consumption by the purchaser or by others at the expense of the purchaser.

(3) Subsections (1) and (2) are deemed to have come into force on November 29, 1996.

1994, c. 29, s.
6(1)

62. (1) The portion of subsection 23.32(1) of the Act before paragraph (b) is replaced by the following:

Tax on tobacco
sold to
purchaser not
authorized to
resell in

Quebec or New
Brunswick

23.32 (1) An excise tax shall be imposed, levied and collected on cigarettes and tobacco sticks that are

(a) marked or stamped in accordance with a statute of the Province of Quebec or New Brunswick to indicate that they are intended for retail sale in that province; and

1994, c. 29, s.
6(1)

(2) Subsection 23.32(2) of the Act is replaced by the following:

Where tax not
imposed

(2) Tax shall not be imposed under subsection (1) where the purchaser referred to in that subsection is a consumer located in the province referred to in that subsection and the purchase is for consumption by the purchaser or by others at the expense of the purchaser.

(3) Subsections (1) and (2) are deemed to have come into force on November 29, 1996.

1994, c. 29, s.
6(1)

63. (1) Subsection 23.33(1) of the Act is replaced by the following:

Tax on
cigarettes sold
to purchaser
not authorized
to resell in
Nova Scotia

23.33 (1) An excise tax shall be imposed, levied and collected on cigarettes that are

(a) marked or stamped in accordance with a statute of the Province of Nova Scotia to indicate that they are intended for retail sale in that province; and

(b) sold by the manufacturer of them, or by a person who is authorized under a statute of the province to sell manufactured tobacco in the province, to a purchaser who is not authorized

under a statute of the province to sell manufactured tobacco in the province.

1994, c. 29, s.
6(1)

(2) Subsections 23.33(3) and (4) of the Act are replaced by the following:

When and by
whom tax
payable

(3) The tax imposed under subsection (1) is payable by the person selling the cigarettes to the purchaser referred to in that subsection and is payable at the time of the sale.

Amount of tax

(4) The tax imposed on cigarettes under subsection (1) shall be equal to the amount by which

(a) the excise tax that would have been imposed under section 23 in respect of the cigarettes if the applicable rate of excise tax were the rate set out in paragraph 1(f) of Schedule II

exceeds

(b) the excise tax that was imposed under section 23 in respect of the cigarettes.

(3) Subsections (1) and (2) are deemed to have come into force on November 29, 1996.

1995, c. 36, s.
3(2)

64. (1) The definition "Nova Scotia manufactured tobacco" in subsection 23.34(1) of the Act is repealed.

(2) Subsection 23.34(1) of the Act is amended by adding the following in alphabetical order:

"Nova Scotia
cigarettes"
« *cigarettes de
la Nouvelle-
Écosse* »

"Nova Scotia cigarettes" means cigarettes that are marked or stamped in accordance with the *Tobacco Tax Act*, R.S.N.S. 1989, c.

470, to indicate that the cigarettes are intended for retail sale in the Province of Nova Scotia;

"Nova Scotia
tobacco sticks"
« *bâtonnets de
tabac de la
Nouvelle-Écosse*
»

"Nova Scotia tobacco sticks" means tobacco sticks that are marked or stamped in accordance with the *Tobacco Tax Act*, R.S.N.S. 1989, c. 470, to indicate that the tobacco sticks are intended for retail sale in the Province of Nova Scotia.

1995, c. 36, s.
3(3)

(3) The portion of subsection 23.34(2) of the Act before paragraph (a) is replaced by the following:

Excise tax on
diverted P.E.I.
cigarettes

(2) An excise tax shall be imposed, levied and collected on Nova Scotia cigarettes, to which paragraph 1(e) of Schedule II applies, that a licensed wholesale vendor sells to a person other than

1994, c. 29, s.
6(1)

(4) Subsection 23.34(4) of the Act is replaced by the following:

Amount of tax

(4) The tax imposed on cigarettes under subsection (2) shall be equal to the amount by which

(a) the excise that would have been imposed under section 23 in respect of the cigarettes if the applicable rate of excise tax were the rate set out in paragraph 1(f) of Schedule II

exceeds

(b) the excise tax that was imposed under section 23 in respect of the cigarettes.

(5) Subsection (1) is deemed to have come into force on December 12, 1996.

(6) Subsections (2), (3) and (4) are deemed to have come into force on November 29, 1996.

1995, c. 36, s.

4

65. (1) The portion of subsection 23.341(1) of the Act before paragraph (a) is replaced by the following:

Excise tax on
diverted P.E.I.
tobacco

23.341 (1) An excise tax shall be imposed, levied and collected on Nova Scotia cigarettes or Nova Scotia tobacco sticks, to which section 68.169 and paragraph 1(e) or 2(d) of Schedule II apply, that a licensed retail vendor sells to a person other than

1995, c. 36, s.

4

(2) Subsection 23.341(3) of the Act is replaced by the following:

Amount of tax

(3) The tax imposed under subsection (1) shall be equal to the amount by which

(a) the excise tax that would have been imposed under section 23 in respect of the cigarettes or tobacco sticks if the applicable rates of excise tax were the rates set out in paragraph 1(f) or 2(d) of Schedule II

exceeds

(b) the excise tax imposed at the rates of

(i) \$0.07013 per five cigarettes, in the case of cigarettes,
and

(ii) \$0.00595 per tobacco stick, in the case of tobacco sticks.

(3) Subsections (1) and (2) are deemed to have come into force on December 12, 1996.

1994, c. 29, s.

6(1)

66. (1) Subsection 23.36(2) of the Act is replaced by the following:

Tax on excess
sale of black
stock
cigarettes

(2) Where a designated wholesale vendor sells to a designated retail vendor a quantity of black stock cigarettes, in respect of which subparagraph 1(c)(ii) of Schedule II applies, that is in excess of the quantity of black stock cigarettes that the designated wholesale vendor is authorized in writing by the Nova Scotia Provincial Tax Commission to sell to the designated retail vendor without the collection of tax under the *Tobacco Tax Act*, R.S.N.S. 1989, c. 470, an excise tax shall be imposed, levied and collected on those excess black stock cigarettes.

1994, c. 29, s.
6(1)

(2) Subsection 23.36(3) of the Act is replaced by the following:

Tax on illegal
sale of black
stock
cigarettes

(3) Where a designated wholesale vendor sells black stock cigarettes, in respect of which subparagraph 1(c)(ii) of Schedule II applies, to a person other than an Indian consumer on a reserve in Nova Scotia or a designated retail vendor, an excise tax shall be imposed, levied and collected on those cigarettes.

1994, c.29, s.
6(1)

(3) Subsection 23.36(5) of the Act is replaced by the following:

Amount of tax

(5) The tax imposed on black stock cigarettes under subsection (2) or (3) shall be equal to the amount by which

(a) the excise tax that would have been imposed under section 23 in respect of those cigarettes if the applicable rate of excise tax were the rate set out in paragraph 1(f) of Schedule II

exceeds

(b) the excise tax that was imposed under section 23 in respect of those cigarettes.

(4) Subsections (1) to (3) are deemed to have come into force on November 29, 1996.

1994, c. 29, s.
7(1)

67. (1) Section 68.161 of the Act is replaced by the following:

Refund of tax
where foreign
taxes paid or
where products
for sale in
foreign duty
free shop

68.161 The Minister may refund to the manufacturer or producer of tobacco products (within the meaning assigned by section 23.1) the tax paid under subsection 23.2(1) in respect of the tobacco products where

(a) the manufacturer or producer provides to the Minister evidence satisfactory to the Minister that

(i) all taxes imposed on the tobacco products by the national government of the country to which the tobacco products were exported have been paid, or

(ii) the tobacco products were purchased by the operator of a foreign duty free shop (as defined in subsection 23.22(1)), for duty free sale by the operator in that shop; and

(b) the manufacturer or producer applies to the Minister for the repayment within two years after the tobacco products were exported.

(2) Subsection (1) is deemed to have come into force on November 29, 1996.

68. (1) Subsection 68.169(1) of the Act is amended by adding the following in alphabetical order:

"Nova Scotia
manufactured
tobacco"
« *tabac*
fabriqué de la
Nouvelle-Écosse
»

"Nova Scotia manufactured tobacco" means manufactured tobacco that is marked or stamped in accordance with the *Tobacco Tax Act*, R.S.N.S. 1989, c. 470, to indicate that the manufactured tobacco is intended for retail sale in the Province of Nova Scotia;

1995, c. 36, s.
6(2)

(2) Subsections 68.169(3.2) to (5) of the Act are replaced by the following:

Rebate to
P.E.I.
wholesaler

(3.2) Where, after November 8, 1995 and before November 29, 1996, a licensed wholesale vendor sells Nova Scotia cigarettes or Nova Scotia tobacco sticks to a licensed retail vendor, or to a consumer in the Province of Prince Edward Island for consumption by the consumer or by others at the expense of the consumer, the Minister may pay to the licensed wholesale vendor a tax rebate equal to the total of

- (a) \$0.00625 multiplied by the number of those cigarettes, and
- (b) \$0.0074 multiplied by the number of those tobacco sticks.

Rebate after
November 28,
1996

(3.21) Where, after November 28, 1996 and before December 12, 1996, a licensed wholesale vendor sells Nova Scotia manufactured tobacco to a licensed retail vendor, or to a consumer in the Province of Prince Edward Island for consumption by the consumer or by others at the expense of the consumer, the Minister may pay to the licensed wholesale vendor a tax rebate equal to the total of

- (a) \$0.00975 multiplied by the number of cigarettes, in respect of the portion of that manufactured tobacco that is cigarettes,
- (b) \$0.0074 multiplied by the number of tobacco sticks, in respect of the portion of that manufactured tobacco that is tobacco sticks, and
- (c) \$2.70 multiplied by the number of kilograms of that manufactured tobacco that is not cigarettes or tobacco sticks.

Rebate after
December 11,
1996

(3.22) Where, after December 11, 1996, a licensed wholesale vendor sells Nova Scotia cigarettes or Nova Scotia tobacco sticks to a licensed retail vendor, or to a consumer in the Province of Prince Edward Island for consumption by the consumer or by others at the expense of the consumer, the Minister may pay to the licensed wholesale vendor a tax rebate equal to the total of

(a) \$0.00625 multiplied by the number of those cigarettes, and

(b) \$0.0047 multiplied by the number of those tobacco sticks.

Conditions for
rebate

(4) To qualify to receive a rebate under any of subsections (2) to (3.22) in respect of manufactured tobacco, the licensed wholesale vendor must

(a) apply to the Minister for the rebate, within two years after the sale of the manufactured tobacco by the licensed wholesale vendor, in any form and manner that is authorized by the Minister; and

(b) include in the application a certification by the Treasurer of the Province of Prince Edward Island that all tax payable in respect of the manufactured tobacco under the *Health Tax Act*, R.S.P.E.I. 1988, c. H-3, has been paid.

Only one
application per
month

(5) A licensed wholesale vendor shall not apply for a rebate under any of subsections (2) to (3.22) more often than once per month.

(3) Subsections (1) and (2) are deemed to have come into force on November 29, 1996.

R.S., c. 12
(4th Supp.), s.
30(1)

69. (1) Subsection 74(1) of the Act is replaced by the following:

Deductions of
tax, other than
Part I tax,
where
application

74. (1) In lieu of making a payment, other than a payment in respect of Part I, pursuant to an application under any of sections 68 to 68.153, 68.161 or 68.17 to 69, the Minister may, on request of the applicant, authorize the applicant to deduct, on such terms and conditions and in such manner as the Minister may specify, the amount that would otherwise be paid to the applicant from the amount of any payment or remittance of tax, penalty, interest or other sum that is reported in a return under section 20, 21.32 or 78 by the applicant.

(2) Subsection (1) is deemed to have come into force on November 29, 1996.

1994, c. 29, s.
10

70. (1) The portion of section 97.1 of the Act before paragraph (a) is replaced by the following:

Offence of
selling in
another
province
tobacco marked
for sale in
Ontario

97.1 Where manufactured tobacco has been marked or stamped in accordance with a statute of the Province of Ontario to indicate that the manufactured tobacco is intended for sale in that province, every person who sells or offers for sale the manufactured tobacco to a consumer in any other province is guilty of an offence and is liable on summary conviction to a fine of not less than \$1,000 and not more than the greater of \$1,000 and triple the amount by which

(2) Subsection (1) is deemed to have come into force on November 29, 1996.

1994, c. 29, s.
10

71. (1) The portion of section 97.2 of the Act before paragraph (a) is replaced by the following:

Offence of
selling in
another
province
tobacco marked

for sale in
Quebec or N.B.

97.2 Where cigarettes or tobacco sticks have been marked or stamped in accordance with a statute of the Province of Quebec or New Brunswick to indicate that they are intended for sale in that province, every person who sells or offers for sale the cigarettes or tobacco sticks to a consumer in any other province is guilty of an offence and is liable on summary conviction to a fine of not less than \$1,000 and not more than the greater of \$1,000 and triple the amount by which

(2) Subsection (1) is deemed to have come into force on November 29, 1996.

1994, c. 29, s.
10; 1995, c.
36, s. 7

72. (1) Section 97.3 of the Act is replaced by the following:

Offence of
selling in
another
province
cigarettes
marked for sale
in N.S.

97.3 Where cigarettes have been marked or stamped in accordance with a statute of the Province of Nova Scotia to indicate that the cigarettes are intended for sale in that province, every person who sells or offers for sale the cigarettes to a consumer in any other province, other than the Province of Prince Edward Island, is guilty of an offence and is liable on summary conviction to a fine of not less than \$1,000 and not more than the greater of \$1,000 and triple the amount by which

(a) the excise tax that would be imposed under section 23 in respect of the cigarettes if the applicable rate of tax were the rate set out in paragraph 1(f) of Schedule II

exceeds

(b) the excise tax that was imposed under section 23 in respect of the cigarettes.

(2) Subsection (1) is deemed to have come into force on November 29, 1996.

1994, c. 29, s.
10

73. (1) Subsection 97.5(2) of the Act is replaced by the following:

Offence of
unauthorized
sale of
cigarettes
intended for
Indian reserve

(2) Every person who sells or offers for sale black stock cigarettes in respect of which excise tax was imposed under section 23 at a rate provided for under paragraph 1(c) of Schedule II, because of the application of subparagraph 1(c)(ii) of that Schedule, to a person other than a designated wholesale vendor, a designated retail vendor or an Indian consumer on a reserve in Nova Scotia is guilty of an offence and liable on summary conviction to a fine of not less than \$1,000 and not more than the greater of \$1,000 and triple the amount by which

(a) the excise tax that would be imposed under section 23 in respect of the cigarettes if the applicable rate of excise tax were the rate set out in paragraph 1(f) of Schedule II

exceeds

(b) the excise tax that was imposed under section 23 in respect of the cigarettes.

(2) Subsection (1) is deemed to have come into force on November 29, 1996.

1994, c. 29, s.
14(1); 1995, c.
36, s. 9(1)

74. (1) The portion of paragraph 1(a) of Schedule II to the Act before subparagraph (ii) is replaced by the following:

(a) \$0.05138 for each five cigarettes or fraction of five cigarettes contained in any package, where

(i) the cigarettes are marked or stamped in accordance with the *Tobacco Tax Act*, R.S.O. 1990, c. T.10, to indicate that the cigarettes are intended for retail sale in the Province of Ontario, or

1995, c. 36, s.
9(2)

(2) Paragraph 1(b) of Schedule II to the Act is replaced by the following:

(b) \$0.04138 for each five cigarettes or fraction of five cigarettes contained in any package where the cigarettes are marked or stamped in accordance with the *Tobacco Tax Act*, R.S.Q. 1977, c. I-2, to indicate that the cigarettes are intended for retail sale in the Province of Quebec;

1994, c. 29, s.
14(1)

(3) The portion of paragraph 1(c) of Schedule II to the Act before subparagraph (ii) is replaced by the following:

(c) \$0.10138 for each five cigarettes or fraction of five cigarettes contained in any package, where

(i) the cigarettes are marked or stamped in accordance with the *Tobacco Tax Act*, R.S.N.S. 1989, c. 470, to indicate that the cigarettes are intended for retail sale in the Province of Nova Scotia, or

1994, c. 29, s.
14(1); 1995, c.
36, s. 10

(4) Paragraphs 1(d) and (e) of Schedule II to the Act are replaced by the following:

(d) \$0.10138 for each five cigarettes or fraction of five cigarettes contained in any package, where the cigarettes are marked or stamped in accordance with the *Tobacco Tax Act*, R.S.N.B. 1973, c. T-7, to indicate that the cigarettes are intended for retail sale in the Province of New Brunswick;

(e) \$0.10138 for each five cigarettes or fraction of five cigarettes contained in any package, where

(i) the cigarettes are marked or stamped in accordance with the *Tobacco Tax Act*, R.S.N.S. 1989, c. 470, to indicate that the cigarettes are intended for retail sale in the Province of Nova Scotia and are delivered by the manufacturer or producer of the cigarettes to a wholesale vendor licensed as such under the *Health Tax Act*, R.S.P.E.I. 1988, c. H-3, and

(ii) the wholesale vendor certifies to the manufacturer or producer, in any form and manner authorized by the Minister,

that the cigarettes are intended for retail sale in the Province of Prince Edward Island in accordance with the *Health Tax Act*, R.S.P.E.I. 1988, c. H-3; and

(5) Subsections (1) to (4) are deemed to have come into force on November 29, 1996.

(6) For the purposes of the provisions of the *Customs Act* and the *Excise Tax Act* that provide for the payment of, or liability to pay, any interest, subsections (1) to (4) are deemed to have come into force as if this Act had been assented to on November 29, 1996.

1994, c. 29, s.
14(1)

75. (1) Paragraph 2(c) of Schedule II to the Act is replaced by the following:

(c) \$0.00865 per stick, where the tobacco sticks are marked or stamped in accordance with the *Tobacco Tax Act*, R.S.N.B. 1973, c. T-7, to indicate that the tobacco sticks are intended for retail sale in the Province of New Brunswick; and

(2) Subsection (1) is deemed to have come into force on November 29, 1996.

(3) For the purposes of the provisions of the *Customs Act* and the *Excise Tax Act* that provide for the payment of, or liability to pay, any interest, subsection (1) is deemed to have come into force as if this Act had been assented to on November 29, 1996.

1994, c. 29, s.
14(1); 1995, c.
36, s. 11

76. (1) Item 3 of Schedule II to the Act is amended by adding the word "and" at the end of paragraph (a) and by repealing paragraphs (b) to (d).

(2) Subsection (1) is deemed to have come into force on November 29, 1996.

(3) For the purposes of the provisions of the *Customs Act* and the *Excise Tax Act* that provide for the payment of, or liability to pay, any interest, subsection (1) is deemed to have come into force as if this Act had been assented to on November 29, 1996.

R.S., c. 1 (5th
Supp.)

Income Tax Act

77. (1) Paragraph 182(1)(a) of the *Income Tax Act* is replaced by the following:

(a) the number of days in the year that are after February 8, 1994 and before February 9, 2000

(2) Subsection (1) applies to taxation years ending after February 8, 1997.

R.S., c. 41
(3rd Supp.)

Customs Tariff

78. (1) Note 7(a) to Chapter 98 of Schedule I to the *Customs Tariff* is replaced by the following:

(a) the provisions shall apply to alcoholic beverages not exceeding 1.14 litres and tobacco not exceeding fifty cigars, two hundred cigarettes, two hundred tobacco sticks and two hundred grams of manufactured tobacco where they are included in the baggage accompanying the importer, and no exemption is being claimed in respect of alcoholic beverages or tobacco under another heading or subheading at the time of importation;

(2) Subsection (1) is deemed to have come into force on November 29, 1996.

79. (1) Subheading Note 2 to Chapter 98 of Schedule I to the Act is replaced by the following:

2. For the purpose of subheading No. 9804.10, goods may include alcoholic beverages not exceeding 1.14 litres and tobacco not exceeding fifty cigars, two hundred cigarettes, two hundred tobacco sticks and two hundred grams of manufactured tobacco.

(2) Subsection (1) is deemed to have come into force on November 29, 1996.

PART VI

CHILD TAX BENEFIT

R.S., c. 1 (5th
Supp.)

Income Tax Act

80. (1) Paragraph (c) of the description of A in subsection 122.61(1) of the *Income Tax Act* is replaced by the following:

(c) where the person is, at the beginning of the month, an eligible individual in respect of one or more qualified dependants, the amount determined by the formula

$$\$6,250 \quad [C \times (D - \$3,750)] - (G \times H)$$

where

C is, where the person is an eligible individual in respect of

(i) only one qualified dependant, \$605, and

(ii) two or more qualified dependants, the total of

(A) \$605 for the first qualified dependant,

(B) \$405 for the second qualified dependant, and

(C) \$330 for each, if any, of the third and subsequent qualified dependants,

D is the lesser of \$10,000 and the person's adjusted earned income for the year,

G is the amount, if any, by which the person's adjusted income for the year exceeds \$20,921, and

H is, where the person is an eligible individual in respect of

(i) only one qualified dependant, 12.1%,

(ii) two qualified dependants, 20.2%, and

(iii) three or more qualified dependants, 26.8%, and

(2) The portion of subsection 122.61(5) of the Act before paragraph (a) is replaced by the following:

Annual
adjustment

(5) Each amount (other than the amounts of \$6,250 and \$20,921) expressed in dollars in subsection (1) shall be adjusted so that,

where the base taxation year in relation to a particular month is after 1996, the amount to be used under that subsection for the month is equal to the total of

(3) Section 122.61 of the Act is amended by adding the following after subsection (5):

Annual
adjustment

(5.1) The amount of \$6,250 referred to in subsection (1) shall be adjusted so that the amount to be used under that subsection for a month in relation to a base taxation year that is after 1996 is equal to the amount by which

(a) the amount of \$10,000 referred to in that subsection, as adjusted and rounded under this section for the year,

exceeds

(b) the amount of \$3,750 referred to in that subsection, as adjusted and rounded under this section for the year.

(4) Subsections (1) to (3) apply to overpayments deemed to arise during months that are after June 1997.

PART VII

AVIATION FUEL TAX REBATE

R.S., c. E-15

Excise Tax Act

1992, c. 29, s.

1

81. (1) The definition "fuel tax rebate" in subsection 68.4(1) of the *Excise Tax Act* is replaced by the following:

"fuel tax
rebate"
« *remise de
taxe sur le
combustible* »

"fuel tax rebate" means an amount payable under subsection (2), (3) or (3.1);

(2) Subsection 68.4(1) of the Act is amended by adding the following in alphabetical order:

"air carrier"
« *transporteur
aérien* »

"air carrier" in a calendar year, means a person who is a carrier in the year and whose gross revenue for the year is derived primarily from the business of providing eligible air transportation services;

"aviation
rebate limit"
« *plafond de la
remise aux
transporteurs
aériens* »

"aviation rebate limit" of a particular air carrier for a calendar year, means

(a) where at every time in the year no other air carrier is related to the particular air carrier, \$20,000,000, and

(b) in any other case, the amount that the particular air carrier and all other persons (in this paragraph referred to as "related air carriers") each of which is an air carrier in the year and is related to the particular air carrier at any time in the year allocate, in an agreement in prescribed form filed with the Minister with the application described in paragraph (3.1)(b), to the particular air carrier for the year, provided that

(i) if the total of the amounts so allocated for the year to the particular air carrier and all related air carriers is greater than \$20,000,000, each amount so allocated is deemed to be nil, and

(ii) if the particular air carrier and all related air carriers fail to file an agreement under this paragraph for the year, the Minister may allocate an amount to one or more of them for the year, which amount or the total of which amounts shall not exceed \$20,000,000, and any amount so allocated by the Minister is deemed to have been so allocated by the particular air carrier and all related air carriers in such an agreement;

"eligible air
transportation
services"

« *service de
transport
aérien
admissible* »
<?[cn]>

"eligible air transportation services" means the carriage by aircraft of passengers or goods or both;

"ineligible
use"
« *fin
inadmissible* »

"ineligible use" means any use other than the provision of eligible transportation services for commercial purposes or, where a rebate is paid under subsection (3.1), any use other than the provision of eligible air transportation services for commercial purposes, and for greater certainty the sale of fuel is an ineligible use;

(3) Section 68.4 of the Act is amended by adding the following after subsection (1):

Deemed not
related

(1.1) For the purposes of this section, a corporation that is a Canadian-controlled private corporation within the meaning of subsection 125(7) of the *Income Tax Act* and another corporation to which it would otherwise be related at any time are deemed not to be related to each other at that time where the corporations are not associated with each other at that time within the meaning of subsection 127(1).

1992, c. 29, s.
1

(4) Subsection 68.4(4) of the Act is replaced by the following:

Aviation rebate

(3.1) Where a person who is an air carrier in a calendar year

(a) has, in the year, purchased in Canada or imported aviation fuel for use by the person solely in the provision of eligible air transportation services, and

(b) applies to the Minister, before the end of the sixth month following the end of the year in prescribed form for a fuel tax rebate in respect of that fuel,

the Minister shall, subject to this Part, pay a fuel tax rebate to the person equal to the lesser of four cents for each litre of that fuel and the person's aviation rebate limit for the year.

Limitation on rebates

(4) No fuel tax rebate shall be paid under this section

(a) in respect of fuel used or to be used for an ineligible use;

(b) where subsection (2) or (3) applies, in respect of fuel that is purchased or imported by the carrier or trucker, as the case may be, before 1991 or after 1992;

(c) where subsection (3.1) applies, in respect of fuel that is purchased or imported by the air carrier before 1996 or after 1999; or

(d) to a person who is or has been bankrupt or to the trustee in bankruptcy of the person in respect of any fuel purchased or imported by the person or the trustee before the person is discharged from the bankruptcy.

1992, c. 29, s.

1

(5) Subsections 68.4(6) to (8) of the Act are replaced by the following:

Diverting fuel to ineligible uses

(6) Where a fuel tax rebate is paid to a person under this section in respect of fuel and the person uses the fuel for an ineligible use, the amount of the rebate paid is deemed to be a tax payable under Part III by the person at the time the fuel is so used.

Repayment of rebate

(7) Subject to subsections (8) and (9), a person to whom a fuel tax rebate was paid under subsection (2) or (3.1) may repay to the Receiver General all or part of the rebate.

Time for repayment

(8) A repayment made under subsection (7) in respect of a fuel tax rebate paid to a person in a taxation year of the person shall be made within the 90 day period that begins on any day on which the Minister sends to the person a notice of assessment of tax payable under Part I of the *Income Tax Act* by the person for the year, a notice of determination under subsection 152(1.1) of that Act in respect of the person for the year or a notification that no tax is payable under that Part by the person for the year.

(6) Paragraph 68.4(9)(c) of the Act is replaced by the following:

(c) subsection 78(4) had required the tax to be paid on or before

(i) in the case of a rebate under subsection (3.1), the later of January 1, 2000 and the last day of the month in which the person received the rebate, and

(ii) in any other case, the last day of the month in which the person received the rebate; and

(7) Where a person has applied to the Minister of National Revenue under subsection 68.4(3.1) of the Act, as enacted by subsection (4), before the end of the sixth month after the end of the month in which this Act is assented to, the application is deemed to have been made on a timely basis.

R.S., c. 1 (5th
Supp.)

Income Tax Act

82. (1) Subparagraph 12(1)(x.1)(ii) of the *Income Tax Act* is replaced by the following:

(ii) the amount determined by the formula

$$10(A - B) - C$$

where

A is the total of all fuel tax rebates under subsections 68.4(2) and (3.1) of that Act received in the year by the taxpayer,

B is the total of all amounts, in respect of fuel tax rebates under section 68.4 of that Act received in the year by the taxpayer, repaid by the taxpayer under subsection 68.4(7) of that Act, and

C is the total of all amounts, in respect of fuel tax rebates under section 68.4 of that Act received in the year, deducted under subsection 111(10) in computing the taxpayer's non-capital losses for other taxation years;

(2) Subsection (1) applies to the 1997 and subsequent taxation years.

83. (1) Paragraph 87(2)(uu) of the Act is replaced by the following:

Fuel tax rebates

(uu) for the purposes of paragraph 12(1)(x.1), the description of D.1 in the definition "non-capital loss" in subsection 111(8), and subsections 111(10) and (11), the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation.

(2) Subsection (1) applies to the 1997 and subsequent taxation years.

84. (1) The portion of subsection 111(10) of the Act before paragraph (b) is replaced by the following:

Fuel tax rebate loss abatement

(10) Where in a particular taxation year a taxpayer received an amount (in this subsection referred to as a "rebate") as a fuel tax rebate under subsection 68.4(2) or (3.1) of the *Excise Tax Act*, in computing the taxpayer's non-capital loss for a taxation year (in this subsection referred to as the "loss year") that is one of the 7 taxation years preceding the particular year, there shall be deducted the lesser of

(a) the amount determined by the formula

$$10(A - B) - C$$

where

A is the total of all rebates received by the taxpayer in the particular year,

B is the total of all amounts, in respect of rebates received by the taxpayer in the particular year, repaid by the taxpayer under subsection 68.4(7) of that Act, and

C is the total of all amounts, in respect of rebates received in the particular year, deducted under this subsection in computing the taxpayer's non-capital losses for other taxation years; and

(2) The portion of subsection 111(11) of the Act before paragraph (b) is replaced by the following:

Fuel tax rebate
- partnerships

(11) Where a taxpayer was a member of a partnership at any time in a fiscal period of the partnership during which it received a fuel tax rebate under subsection 68.4(2), (3) or (3.1) of the *Excise Tax Act*, the taxpayer is deemed

(a) to have received at that time as a rebate under subsection 68.4(2), (3) or (3.1), as the case may be, of that Act an amount equal to that proportion of the amount of the rebate received by the partnership that the member's share of the partnership's income or loss for that fiscal period is of the whole of that income or loss, determined without reference to any rebate under section 68.4 of that Act; and

(3) Subsections (1) and (2) apply to the 1997 and subsequent taxation years.

85. (1) Subparagraph 161(7)(a)(viii) of the Act is replaced by the following:

(viii) any amount deducted, in respect of a repayment under subsection 68.4(7) of the *Excise Tax Act* made in a subsequent taxation year, in computing the amount determined under subparagraph 12(1)(x.1)(ii),

(2) Subsection (1) applies to the 1997 and subsequent taxation years.

86. (1) Paragraph 164(5)(a) of the Act is replaced by the following:

(a) the deduction of an amount, in respect of a repayment under subsection 68.4(7) of the *Excise Tax Act* made in a subsequent taxation year, in computing the amount determined under subparagraph 12(1)(x.1)(ii),

(2) Paragraph 164(5.1)(a) of the Act is replaced by the following:

(a) the deduction of an amount, in respect of a repayment under subsection 68.4(7) of the *Excise Tax Act* made in a subsequent

taxation year, in computing the amount determined under subparagraph 12(1)(x.1)(ii),

(3) Subsections (1) and (2) apply to the 1997 and subsequent taxation years.

PART VIII

FUEL MEASUREMENT

R.S., c. E-15

Excise Tax Act

87. (1) The *Excise Tax Act* is amended by adding the following after section 23:

Definitions

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

"fuel"
« *combustible* »

"fuel" means gasoline, diesel fuel and aviation fuel.

"temperature
compensated
method"
« *méthode
fondée sur la
compensation de
la température*
»

"temperature compensated method" means the method involving the measurement of the volume of fuel in litres that are corrected to the reference temperature of 15 degrees Celsius in accordance with the requirements imposed by or under the *Weights and Measures Act*.

"uncompensated
method"
« *méthode
traditionnelle*
»

"uncompensated method" means the method involving the measurement of the volume of fuel in litres that are not corrected to a reference temperature.

Measurement of
fuel volume

(2) For the purposes of determining the tax imposed under subsection 23(1) in respect of fuel, the volume of the fuel shall be measured in accordance with

(a) the temperature compensated method, where that method is used by the manufacturer or producer of the fuel for the purpose of establishing the amount of fuel delivered and charged to the purchaser, or by the importer of the fuel to establish the amount of fuel imported; or

(b) the uncompensated method, where that method is used by the manufacturer or producer of the fuel for the purpose of establishing the amount of fuel delivered and charged to the purchaser, or by the importer of the fuel to establish the amount of fuel imported.

Measurement of
fuel volume -
licensed
wholesalers

(3) For the purposes of determining the tax imposed under subsection 23(4) in respect of fuel sold by a licensed wholesaler, the volume of the fuel shall be measured in accordance with

(a) the temperature compensated method, where that method is used by the licensed wholesaler for the purpose of establishing the amount of fuel delivered and charged to the purchaser; or

(b) the uncompensated method, where that method is used by the licensed wholesaler for the purpose of establishing the amount of fuel delivered and charged to the purchaser.

(2) Subsection (1) is deemed to have come into force on February 19, 1997.

(3) For the purposes of the provisions of the *Customs Act* and the *Excise Tax Act* that provide for the payment of, or liability to pay, any interest, subsection (1) is deemed to have come into force as if this Act had been assented to on February 19, 1997.

EMPLOYMENT INSURANCE

1996, c. 23

Employment Insurance Act

88. (1) Paragraph 25(1)(a) of the *Employment Insurance Act* is replaced by the following:

(a) attending a course or program of instruction or training at the claimant's own expense, or under employment benefits or similar benefits that are the subject of an agreement under section 63, to which the Commission, or an authority that the Commission designates, has referred the claimant; or

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

89. (1) Section 26 of the Act is replaced by the following:

Benefits are
not earnings

26. For the purposes of this Part, Part IV, the *Income Tax Act* and the *Canada Pension Plan*, benefits paid to a claimant while employed under employment benefits, or under similar benefits that are the subject of an agreement under section 63, are not earnings from employment.

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

90. (1) Subsections 96(6) to (10) of the Act are replaced by the following:

Temporary
measure –
employer's
premium refund
for 1997

(6) If an employer's premium is less than \$60,000 during 1996, the Minister shall refund to the employer a portion of the premium for 1997 determined by the following formula if that amount is more than \$1:

$$P2 - (P1 + \$250)$$

where

P1 is the amount of the employer's premium in 1996; and

P2 is the amount of the employer's premium in 1997.

Temporary
measure –
employer's
premium refund
for 1998

(7) If an employer's premium is less than \$60,000 during 1996, the Minister shall refund to the employer a portion of the premium for 1998 determined by the following formula if that amount is more than \$1:

$$4 \quad \frac{P2 - (P1 + \$250)}{4}$$

where

P1 is the amount of the employer's premium in 1996; and

P2 is the amount of the employer's premium in 1998.

P1 can be equal
to zero

(7.1) For the purposes of subsections (6) and (7), P1 is equal to zero where a person was not required to pay an employer's premium in 1996.

Maximum refund

(8) A refund under subsection (6) or (7) shall not exceed

(a) \$10,000, if the amount of the employer's premium in 1996 is less than \$50,000; and

(b) \$60,000 minus the amount of the employer's premium in 1996, if that amount is \$50,000 or more, but less than \$60,000.

Interpretation

(8.1) For the purposes of subsections (6) to (8), a reference to an employer's premium in 1996 includes the employer's premium required to be paid that year under the *Unemployment Insurance Act*.

Associated
employers

(9) If at any time during a year for which a refund is sought two or more employers are associated, as defined by the regulations, they shall be considered a single employer for the purposes of

subsections (6) to (8) and any refund shall be allocated to them in the prescribed manner.

Application for
refund

(10) A refund under subsections (4) to (7) is payable only if an application is made in writing to the Minister within three years after the end of the year for which the premium was deducted or required to be paid.

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

Retroactive
effect of
regulations

91. For the purpose of implementing the amendments to the *Employment Insurance Act* enacted by section 90, a regulation or any provisions of a regulation made under paragraph 108(1)(o) of that Act may, if the regulation so provides, be retroactive and have effect with respect to any period before it is made that begins on or after January 1, 1997.

PART X

AMENDMENTS TO OTHER ACTS

R.S., c. B-7

Bretton Woods and Related Agreements Act

92. The *Bretton Woods and Related Agreements Act* is amended by adding the following after section 8.1:

Interim
financing
agreements

8.2 (1) Where the Bank for International Settlements has agreed to provide a credit facility to a country seeking financial assistance from the International Monetary Fund or the International Bank for Reconstruction and Development, and the Minister of Finance is of the opinion that the credit facility is necessary to facilitate the provision of such financial assistance to the country, the Minister may enter into an agreement or arrangement with the Bank for International Settlements to guarantee the repayment of the principal and any interest owing under the credit facility.

Terms of
agreement

- (2) An agreement or arrangement entered into under this section
- (a) must not be for a term longer than one year; and
- (b) must not be for the repayment of an amount exceeding five hundred million American dollars, or ten per cent of the credit facility, whichever is greater.

Bank of Canada
may act as
agent

(3) The Bank of Canada, on the request of the Minister of Finance, may act as agent of the Minister for the purposes of subsection (1).

Payment out of
C.R.F.

(4) Any sum or sums required for the purposes of this section shall be paid out of the Consolidated Revenue Fund.

1993, c. 14

Farm Credit Corporation Act

93. Subsection 11(1) of the *Farm Credit Corporation Act* is replaced by the following:

Capital
payments

11. (1) At the request of the Corporation, the Minister of Finance may, with the approval of the Governor in Council, pay to the Corporation, out of the Consolidated Revenue Fund, amounts not exceeding in the aggregate one billion, one hundred and seventy-five million dollars, or such greater aggregate amount as may be authorized from time to time under an appropriation Act.

PART XI

PAYMENT TO THE CANADA FOUNDATION FOR INNOVATION

\$800,000,000
granted

94. From and out of the Consolidated Revenue Fund there may, on the requisition of the Minister of Industry, be paid and applied a sum not exceeding eight hundred million dollars, plus interest thereon compounded monthly based on the average daily balance outstanding for the month and calculated from the day on which this Act received first reading in the House of Commons to the day on which this Act is assented to at an annual rate, in each month in which the interest is calculated, that is equivalent to ninety per cent of the simple arithmetic mean of the annual rate of yield on the three month treasury bills that were issued and sold in the immediately preceding month, for payment to the Canada Foundation for Innovation for its use.