

Notice of Ways and Means Motion to amend the Income Tax Act, the Income Tax Application Rules, the Bankruptcy and Insolvency Act, the Canada Pension Plan, the Children's Special Allowances Act, the Companies' Creditors Arrangement Act, the Cultural Property Export and Import Act, the Customs Act, the Customs Tariff, the Employment Insurance Act, the Excise Tax Act, the Federal-Provincial Fiscal Arrangements Act, the Income Tax Conventions Interpretation Act, the Old Age Security Act, the Tax Court of Canada Act, the Tax Rebate Discounting Act, the Unemployment Insurance Act, the Western Grain Transition Payments Act and certain Acts related to the Income Tax Act

SUMMARY

These amendments implement the draft income tax measures announced in the February 1997 budget and the technical amendments to the *Income Tax Act* and related statutes originally included in Bill C-69. Also included is a provision that increases the cash floor of the Canada Health and Social Transfer under the *Federal-Provincial Fiscal Arrangements Act* from \$11 billion to \$12.5 billion and makes the cash floor operative beginning in the 1997-98 fiscal year. The income tax amendments of greater significance are summarized below.

(1) **Charitable Donations:** introduces capital gains tax relief for gifts of certain listed securities, increases the charitable donations limit by recaptured depreciation that arises in respect of gifts of depreciable property, and denies charitable donation treatment for loan-back arrangements.

(2) **Registered Education Savings Plans (RESPs):** increases the annual RESP contribution limit from \$2,000 to \$4,000 per beneficiary, allows growth on RESP contributions not to be forfeited in certain cases where post-secondary education is not pursued by beneficiaries, and provides a 20% penalty on any portion of such growth that is not transferred on a tax-deductible basis to an RRSP.

(3) **Transfer Pricing:** implements, in conformity with the revised transfer pricing guidelines of the Organization for Economic Co-operation and Development, a transfer pricing regime based explicitly on the arm's length principle and introduces transfer pricing documentation requirements and penalties for failure to make reasonable efforts to determine arm's length transfer prices.

(4) **Film or Video Production Services Tax Credit:** introduces a new refundable 11% tax credit to provide economic development assistance to film and video productions produced in Canada.

(5) **Loss Trading:** restricts the transferability of losses between affiliated persons.

(6) **Bankrupt Individuals:** eliminates the double deduction of personal tax credits in the year of bankruptcy.

(7) **Changes of Tax Status of Corporations:** provides rules that apply when a corporation becomes or ceases to be exempt from income tax.

(8) **Disability Benefit Top-ups:** ensures that there will be no change in the income tax treatment to recipients of disability benefits where the insurance company paying the benefits becomes insolvent and employers take responsibility for continuing the current level of benefits.

(9) **Adventures in the Nature of Trade:** implements the measures announced by the Minister of Finance on December 20, 1995 according to which, for income tax purposes, inventory held as an adventure in the nature of trade must be valued at its historical cost, rather than at the lower of cost or fair market value, so that accrued losses on such property will be recognized only on its disposition.

EXPLANATORY NOTES

The Explanatory Notes issued by the Minister of Finance provide a detailed explanation of these income tax amendments.

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That it is expedient to amend the Income Tax Act, the Income Tax Application Rules, the Bankruptcy and Insolvency Act, the Canada Pension Plan, the Children's Special Allowances Act, the Companies' Creditors Arrangement Act, the Cultural Property Export and Import Act, the Customs Act, the Customs Tariff, the Employment Insurance Act, the Excise Tax Act, the Federal-Provincial Fiscal Arrangements Act, the Income Tax Conventions Interpretation Act, the Old Age Security Act, the Tax Court of Canada Act, the Tax Rebate Discounting Act, the Unemployment Insurance Act, the Western Grain Transition Payments Act and certain Acts related to the Income Tax Act as follows:

SHORT TITLE

Short title

1. This Act may be cited as the *Income Tax Amendments Act, 1997*.

PART I

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

INCOME TAX ACT

DIVISION A

1997 BUDGET AMENDMENTS

2. (1) Paragraphs 12(1)(z.1) and (z.2) of the *Income Tax Act* are replaced by the following:

Qualifying
environmental
trusts

(z.1) the total of all amounts received by the taxpayer in the year as a beneficiary under a qualifying environmental trust, whether or not the amounts are included because of subsection 107.3(1) in computing the taxpayer's income for any taxation year;

Dispositions of
interests in
qualifying
environmental
trusts

(z.2) the total of all amounts each of which is the consideration received by the taxpayer in the year for the disposition to another person or partnership of all or part of the taxpayer's interest as a beneficiary under a qualifying environmental trust, other than consideration that is the assumption of a reclamation obligation in respect of the trust;

(2) Subsection (1) applies to taxation years that end after February 18, 1997.

3. (1) Subsection 18(11) of the Act is amended by striking out the word "or" at the end of paragraph (f), by adding the word "or" at the end of paragraph (g) and by adding the following after paragraph (g):

(h) making a contribution into a registered education savings plan,

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

4. (1) Paragraphs 20(1)(ss) and (tt) of the Act are replaced by the following:

Qualifying
environmental
trusts

(ss) a contribution made in the year by the taxpayer to a qualifying environmental trust under which the taxpayer is a beneficiary;

Acquisition of
interests in
qualifying

environmental
trusts

(tt) the consideration paid by the taxpayer in the year for the acquisition from another person or partnership of all or part of the taxpayer's interest as a beneficiary under a qualifying environmental trust, other than consideration that is the assumption of a reclamation obligation in respect of the trust; and

(2) Subsection (1) applies to taxation years that end after February 18, 1997 and, for the purpose of paragraph 20(1)(ss) of the Act, as enacted by subsection (1), each contribution made after 1995 and before February 19, 1997 by a taxpayer to a trust (other than a mining reclamation trust as defined in subsection 248(1) of the Act) is deemed to have been made on February 19, 1997.

5. (1) Subsection 37(12) of the Act is replaced by the following:

Misclassified
expenditures

(12) If a taxpayer has not filed a prescribed form in respect of an expenditure in accordance with subsection (11), for the purposes of this Act, the expenditure is deemed not to be an expenditure on or in respect of scientific research and experimental development.

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

6. (1) Paragraph 38(a) of the Act is replaced by the following:

(a) subject to paragraph (a.1), a taxpayer's taxable capital gain for a taxation year from the disposition of any property is 3/4 of the taxpayer's capital gain for the year from the disposition of the property;

(a.1) a taxpayer's taxable capital gain for a taxation year from the disposition after February 18, 1997 and before 2002 of any property is 3/8 of the taxpayer's capital gain for the year from the disposition of the property where

(i) the disposition is the making of a gift to a qualified donee (as defined in subsection 149.1(1)), other than a private foundation, of a share, debt obligation or right listed on a prescribed stock exchange, a share of the capital stock of a mutual fund corporation, a unit of a mutual fund trust, an interest in a related segregated fund trust (within the meaning assigned by paragraph 138.1(1)(a)) or a prescribed debt obligation, or

(ii) the disposition is deemed by section 70 to have occurred and the taxpayer is deemed by subsection 118.1(5) to have made a gift described in subparagraph (i) of the property;

(2) Subsection (1) applies after February 18, 1997.

7. (1) Subparagraph 39(1)(a)(v) of the Act is replaced by the following:

(v) an interest of a beneficiary under a qualifying environmental trust;

(2) The portion of subsection 39(5) of the Act before paragraph (a) is replaced by the following:

Exception

(5) An election under subsection (4) does not apply to a disposition of a Canadian security by a taxpayer (other than a mutual fund corporation or a mutual fund trust) who at the time of the disposition is

(3) Subsection (1) applies to taxation years that end after February 18, 1997.

(4) Subsection (2) applies to the 1991 and subsequent taxation years.

(5) For the purpose of subsection 39(4) of the Act, if

(a) an election referred to in that subsection is made by a mutual fund corporation or mutual fund trust in prescribed form on or before its filing-due date for its taxation year that includes the day on which this Act is assented to, and

(b) the election is in respect of a particular taxation year that ends after 1990 and that is not after the corporation's or trust's taxation year that includes the day on which this Act is assented to,

the election is deemed to have been made in the corporation's or trust's return of income under Part I of the Act for the particular year.

8. (1) Section 40 of the Act is amended by adding the following after subsection (1):

Gift of
non-qualifying
security

(1.01) A taxpayer's gain for a particular taxation year from a disposition of a non-qualifying security of the taxpayer (as defined in subsection 118.1(18)) that is the making of a gift (other than an excepted gift, within the meaning assigned by subsection 118.1(19)) to a qualified donee (as defined in subsection 149.1(1)) is the amount, if any, by which

(a) where the disposition occurred in the particular year, the amount, if any, by which the taxpayer's proceeds of disposition exceed the total of the adjusted cost base to the taxpayer of the security immediately before the disposition and any outlays and expenses to the extent they were made or incurred by the taxpayer for the purpose of making the disposition, and

(b) where the disposition occurred in the 60-month period that ends at the beginning of the particular year, the amount, if any, deducted under paragraph (c) in computing the taxpayer's gain for the preceding taxation year from the disposition of the security

exceeds

(c) the amount that the taxpayer claims in prescribed form filed with the taxpayer's return of income for the particular year, where

(i) the taxpayer is not deemed by subsection 118.1(13) to have made a gift of property before the end of the particular year as a consequence of a disposition of the security by the donee or as a consequence of the security ceasing to be a non-qualifying security of the individual before the end of the particular year, and

(ii) if the disposition occurred in the 60-month period that ends at the end of the particular year, the taxpayer is resident in Canada and not exempt from tax under this Part on the taxpayer's taxable income at the end of the particular year and throughout the following taxation year.

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

9. (1) Subparagraph 56(1)(a)(i) of the Act is amended by striking out the word "and" at the end of clause (D), by adding the word "and" at the end of clause (E) and by adding the following after clause (E):

(F) a benefit received under section 71 of the *Canada Pension Plan* or under a similar provision of a provincial pension plan as defined in section 3 of that Act,

(2) Subsection 56(1) of the Act is amended by adding the following after paragraph (a):

Benefits under
CPP/QPP

(a.1) where the taxpayer is an estate that arose on or as a consequence of the death of an individual, each benefit received under section 71 of the *Canada Pension Plan*, or under a similar provision of a provincial pension plan as defined in section 3 of that Act, after July 1997 and in the year in respect of the death of the individual;

(3) The portion of subsection 56(8) of the Act before paragraph (b) is replaced by the following:

CPP/QPP
benefits for
previous years

(8) Notwithstanding subsection (1), where

(a) one or more amounts are received by an individual (other than a trust) in a taxation year as, on account of, in lieu of payment of or in satisfaction of, any benefit under the *Canada Pension Plan* or a provincial pension plan as defined in section 3 of that Act, and

(4) Subsections (1) and (2) apply to the 1997 and subsequent taxation years, except that clause 56(1)(a)(i)(F) of the Act, as enacted by subsection (1), does not apply to benefits received before August 1997 by a taxpayer in respect of the death of an individual if the taxpayer is an estate that arose on or as a consequence of the death of the individual.

(5) Subsection (3) applies to amounts received by an individual after 1994, other than an individual to whom tax has been remitted under subsection 23(2) of the *Financial Administration Act* in respect of the amounts referred to in paragraph 56(8)(a) of the *Income Tax Act*, as enacted by subsection (3).

10. (1) Paragraph (d) of the definition "earned income" in subsection 63(3) of the English version of the Act is replaced by the following:

(d) all amounts received by the taxpayer as, on account of, in lieu of payment of or in satisfaction of, a disability pension under the *Canada Pension Plan* or a provincial pension plan as defined in section 3 of that Act;

(2) Subsection (1) applies to amounts received after 1994.

11. (1) The portion of section 64 of the Act before paragraph (a) is replaced by the following:

Attendant care
expenses

64. If a taxpayer in respect of whom an amount may be deducted because of section 118.3 for a taxation year files with the taxpayer's return of income (other than a return of income filed under subsection 70(2), paragraph 104(23)(d) or 128(2)(e) or subsection 150(4)) for the year a prescribed form containing prescribed information, there may be deducted in computing the taxpayer's income for the year the lesser of

(2) Section 64 of the Act is amended by adding the word "and" at the end of paragraph (a), by striking out the word "and" at the end of paragraph (b) and by repealing paragraph (c).

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

12. (1) Paragraph 72(1)(c) of the Act is replaced by the following:

(c) no amount may be claimed under subparagraph 40(1)(a)(iii), paragraph 40(1.01)(c) or subparagraph 44(1)(e)(iii) in computing any gain of the taxpayer for the year;

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

13. (1) Paragraph 75(3)(c.1) of the Act is replaced by the following:

(c.1) by a qualifying environmental trust; or

(2) Subsection (1) applies to taxation years that end after February 22, 1994.

14. (1) Paragraphs 81(1)(o) and (p) of the Act are repealed.

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

15. (1) Subsection 87(2) of the Act is amended by adding the following after paragraph (m):

Gift of
non-qualifying
security

(m.1) for the purpose of computing the new corporation's gain under subsection 40(1.01) for any taxation year from the disposition of a property, 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.

16. (1) Subsection 88(1) of the Act is amended by adding the following after paragraph (e.6):

(e.61) the parent is deemed for the purpose of section 110.1 to have made any gift deemed by subsection 118.1(13) to have been made by the subsidiary after the subsidiary ceased to exist;

(2) Subsection (1) applies after July 1997.

17. (1) Clause (a)(i)(A) of the definition "capital dividend account" in subsection 89(1) of the Act is replaced by the following:

(A) the amount of the corporation's capital gain from a disposition (other than a disposition that is the making of a gift after November 1997) of a property in the period beginning at the beginning of its first taxation year (that began after the corporation last became a private corporation and that ended after 1971) and ending immediately before the particular time

(2) Clause (a)(ii)(A) of the definition "capital dividend account" in subsection 89(1) of the Act is replaced by the following:

(A) the amount of the corporation's capital loss from a disposition (other than a disposition that is the making of a gift after November 1997) of a property in that period

(3) The definition "public corporation" in subsection 89(1) of the Act is replaced by the following:

"public
corporation"
« *société
publique* »

"public corporation" at any particular time means

(a) a corporation that is resident in Canada at the particular time if at that time a class of shares of the capital stock of

the corporation is listed on a prescribed stock exchange in Canada,

(b) a corporation (other than a prescribed labour-sponsored venture capital corporation) that is resident in Canada at the particular time if at any time after June 18, 1971 and

(i) before the particular time, it elected in prescribed manner to be a public corporation, and at the time of the election it complied with prescribed conditions relating to the number of its shareholders, the dispersal of ownership of its shares and the public trading of its shares, or

(ii) before the day that is 30 days before the day that includes the particular time it was, by notice in writing to the corporation, designated by the Minister to be a public corporation and at the time it was so designated it complied with the conditions referred to in subparagraph (i),

unless, after the election or designation, as the case may be, was made and before the particular time, it ceased to be a public corporation because of an election or designation under paragraph (c), or

(c) a corporation (other than a prescribed labour-sponsored venture capital corporation) that is resident in Canada at the particular time if, at any time after June 18, 1971 and before the particular time it was a public corporation, unless after the time it last became a public corporation and

(i) before the particular time, it elected in prescribed manner not to be a public corporation, and at the time it so elected it complied with prescribed conditions relating to the number of its shareholders, the dispersal of ownership of its shares and the public trading of its shares, or

(ii) before the day that is 30 days before the day that includes the particular time, it was, by notice in writing to the corporation, designated by the Minister not to be a public corporation and at the time it was so designated it complied with the conditions referred to in subparagraph (i),

and where a corporation has, on or before its filing-due date for its first taxation year, become a public corporation, it is, if it so elects in its return of income for the year, deemed to have been a public corporation from the beginning of the year until the time when it so became a public corporation;

(4) Subsections (1) and (2) apply to dispositions that occur after November 1997.

(5) Subsection (3) applies to the 1995 and subsequent taxation years.

18. (1) The portion of subsection 107.3(1) of the Act before paragraph (a) is replaced by the following:

Treatment of
beneficiaries
under
qualifying
environmental
trusts

107.3 (1) Where a taxpayer is a beneficiary under a qualifying environmental trust in a taxation year of the trust (in this subsection referred to as the "trust's year") that ends in a particular taxation year of the taxpayer,

(2) Paragraph 107.3(1)(b) of the Act is replaced by the following:

(b) if the taxpayer is non-resident at any time in the particular year and an income or loss described in paragraph (a) or an amount to which paragraph 12(1)(z.1) or (z.2) applies would not otherwise be included in computing the taxpayer's taxable income or taxable income earned in Canada, as the case may be, notwithstanding any other provision of this Act, the income, the loss or the amount shall be attributed to the carrying on of business in Canada by the taxpayer through a fixed place of business located in the province in which the site to which the trust relates is situated.

(3) The portion of subsection 107.3(2) of the Act before paragraph (a) is replaced by the following:

Transfers to
beneficiaries

(2) Where property of a qualifying environmental trust is transferred at any time to a beneficiary under the trust in satisfaction of all or any part of the beneficiary's interest as a beneficiary under the trust,

(4) The portion of subsection 107.3(3) of the Act before paragraph (b) is replaced by the following:

Ceasing to be a
qualifying
environmental
trust

(3) Where a trust ceases at any time to be a qualifying environmental trust,

(a) the taxation year of the trust that would otherwise have included that time is deemed to have ended immediately before that time and a new taxation year of the trust is deemed to have begun at that time;

(5) Subsection 107.3(4) of the Act is replaced by the following:

Application

(4) Subsection 104(13) and sections 105 to 107 do not apply to a trust with respect to a taxation year during which it is a qualifying environmental trust.

(6) Subsections (1) to (5) apply to taxation years that end after February 18, 1997.

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

"preferred
beneficiary"
« *bénéficiaire
privilégié* »

"preferred beneficiary" under a trust for a particular taxation year of the trust means a beneficiary under the trust at the end of the particular year who is resident in Canada at that time if

(a) the beneficiary is

(i) an individual in respect of whom paragraphs 118.3(1)(a) to (b) apply for the individual's taxation year (in this definition referred to as the "beneficiary's year") that ends in the particular year, or

(ii) an individual

(A) who attained the age of 18 years before the end of the beneficiary's year, was a dependant (within the meaning assigned by subsection 118(6)) of another individual for the beneficiary's year and was dependent on the other individual because of mental or physical infirmity, and

(B) whose income (computed without reference to subsection 104(14)) for the beneficiary's year does not exceed \$6,456, and

(b) the beneficiary is

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

(2) Subsection (1) applies to trust taxation years that end after 1996.

20. (1) Subsection 110.1(1) of the Act is replaced by the following:

Deduction for
gifts

110.1 (1) For the purpose of computing the taxable income of a corporation for a taxation year, there may be deducted such of the following amounts as the corporation claims:

Charitable
gifts

(a) the total of all amounts each of which is the fair market value of a gift (other than a gift described in paragraph (b), (c) or (d)) made by the corporation in the year or in any of the 5 preceding taxation years to

- (i) a registered charity,
- (ii) a registered Canadian amateur athletic association,
- (iii) a corporation resident in Canada and described in paragraph 149(1)(i),
- (iv) a municipality in Canada,
- (v) the United Nations or an agency thereof,
- (vi) a university outside Canada that is prescribed to be a university the student body of which ordinarily includes students from Canada,
- (vii) a charitable organization outside Canada to which Her Majesty in right of Canada has made a gift in the year or in the 12-month period preceding the year, or
- (viii) Her Majesty in right of Canada or a province,

not exceeding the lesser of the corporation's income for the year and the amount determined by the formula

$$0.75A + 0.25 (B + C + D)$$

where

- A is the corporation's income for the year computed without reference to subsection 137(2),
- B is the total of all amounts each of which is a taxable capital gain of the corporation for the year from a disposition that is the making of a gift made by the corporation in the year and described in this paragraph,
- C is the total of all amounts each of which is a taxable capital gain of the corporation for the year, because of subsection 40(1.01), from a disposition of a property in a preceding taxation year, and
- D is the total of all amounts each of which is determined in respect of the corporation's depreciable property of a prescribed class and equal to the lesser of

(A) the amount included under subsection 13(1) in respect of the class in computing the corporation's income for the year, and

(B) the total of all amounts each of which is determined in respect of a disposition that is the making of a gift of property of the class made by the corporation in the year that is described in this paragraph and equal to the lesser of

(I) the proceeds of disposition of the property minus any outlays and expenses to the extent that they were made or incurred by the corporation for the purpose of making the disposition, and

(II) the capital cost to the corporation of the property;

Gifts to Her Majesty

(b) the total of all amounts each of which is the fair market value of a gift (other than a gift described in paragraph (c) or (d)) made by the corporation to Her Majesty in right of Canada or a province

(i) in the year or in any of the 5 preceding taxation years, and

(ii) before February 19, 1997 or under a written agreement made before that day;

Gifts to
institutions

(c) the total of all amounts each of which is the fair market value of a gift (other than a gift described in paragraph (d)) of an object that the Canadian Cultural Property Export Review Board has determined meets the criteria set out in paragraphs 29(3)(b) and (c) of the *Cultural Property Export and Import Act*, which gift was made by the corporation in the year or in any of the 5 preceding taxation years to an institution or a public authority in Canada that was, at the time the gift was made, designated under subsection 32(2) of that Act either generally or for a specified purpose related to that object; and

Ecological
gifts

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

(i) Her Majesty in right of Canada or a province or a municipality in Canada, or

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

Limitation on
deductibility

(1.1) For the purpose of determining the amount deductible under subsection (1) in computing a corporation's taxable income for a taxation year,

(a) an amount in respect of a gift is deductible only to the extent that it exceeds amounts in respect of the gift deducted under that subsection in computing the corporation's taxable income for preceding taxation years; and

(b) no amount in respect of a gift made in a particular taxation year is deductible under any of paragraphs (1)(a) to (d) until amounts deductible under that paragraph in respect of gifts made in taxation years preceding the particular year have been deducted.

(2) Section 110.1 of the Act is amended by adding the following after subsection (4):

Ecological
gifts

(5) For the purposes of paragraph (1)(d) and section 207.31, the fair market value of a gift of a servitude, a covenant or an easement to which land is subject is deemed to be the greater of its fair market value otherwise determined and the amount by which the fair market value of the land is reduced as a consequence of the making of the gift.

Non-qualifying
securities

(6) Subsections 118.1(13), and (14) and (16) to (20) apply to a corporation as if the references in those subsections to an individual were read as references to a corporation and as if a non-qualifying security of a corporation included a share (other than a share listed on a prescribed stock exchange) of the capital stock of the corporation.

Corporation
ceasing to
exist

(7) If, but for this subsection, a corporation (other than a corporation that was a predecessor corporation in an amalgamation to which subsection 87(1) applied or a corporation that was wound up in a winding-up to which subsection 88(1) applied) would be deemed by subsection 118.1(13) to have made a gift after the corporation ceased to exist, for the purpose of this section, the corporation is deemed to have made the gift in its last taxation year, except that the amount of interest payable under any provision of this Act is the amount that it would be if this subsection did not apply to the gift.

(3) Subsection (1) applies to taxation years that begin after 1996.

(4) Subsection 110.1(5) of the Act, as enacted by subsection (2), applies to gifts made after February 27, 1995.

(5) Subsections 110.1(6) and (7) of the Act, as enacted by subsection (2), apply after July 1997.

21. (1) The portion of subsection 117.1(1) of the Act before paragraph (c) is replaced by the following:

Annual
adjustment

117.1 (1) Each of

(a) the amount of \$6,456 referred to in clause (a)(ii)(B) of the definition "preferred beneficiary" in subsection 108(1) in relation to a beneficiary's income (computed without reference to subsection 104(14)) for a taxation year,

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

(b.1) the amounts of \$5,000 and \$6,000 referred to in subsection (2) and paragraphs (a) and (b) of the description of B in subsection 118(1) in relation to tax payable under this Part for a taxation year, and

(b.2) the amounts expressed in dollars in subsections 122.5(3) and 122.51(1) and (2) in relation to tax payable under this Part for a taxation year

shall be adjusted so that the amount to be used under those provisions for the year is the total of

(2) Subsection (1) applies to the 1997 and subsequent taxation years except that, in applying paragraph 117.1(1)(b.2) of the Act, as enacted by subsection (1), to the 1997 taxation year, the reference in that paragraph to "subsections 122.5(3) and 122.51(1) and (2)" shall be read as "subsection 122.5(3)".

(3) For the purpose of paragraph 117.1(1)(c) of the Act, the amount to be used under clause (a)(ii)(B) of the definition "preferred beneficiary" in subsection 108(1) of the Act, as enacted by subsection 19(1), in relation to income for the 1996 taxation year is deemed to be \$6,456.

22. (1) The definition "total charitable gifts" in subsection 118.1(1) of the Act is amended by striking out the word "or" at the end of paragraph (f), by adding the word "or" at the end of paragraph (g) and by adding the following after paragraph (g):

(g.1) Her Majesty in right of Canada or a province,

(2) The definition "total Crown gifts" in subsection 118.1(1) of the Act is amended by striking out the word "and" at the end of paragraph (a), by adding the word "and" at the end of paragraph (b) and by adding the following after paragraph (b):

(c) in respect of gifts made before February 19, 1997 or under agreements in writing made before that day;

(3) Paragraph (a) of the definition "total ecological gifts" in subsection 118.1(1) of the Act is replaced by the following:

(a) Her Majesty in right of Canada or a province or a municipality in Canada, or

(4) Subparagraph (a)(iii) of the definition "total gifts" in subsection 118.1(1) of the Act is replaced by the following:

(iii) in any other case, the lesser of the individual's income for the year and the amount determined by the formula

$$0.75A + 0.25 (B + C + D - E)$$

where

A is the individual's income for the year,

B is the total of all amounts each of which is a taxable capital gain of the individual for the year from a disposition that is the making of a gift made by the individual in the year, which gift is included in the individual's total charitable gifts for the year,

C is the total of all amounts each of which is a taxable capital gain of the individual for the year, because of subsection 40(1.01), from a disposition of a property in a preceding taxation year,

D is the total of all amounts each of which is determined in respect of the individual's depreciable property of a prescribed class and equal to the lesser of

(A) the amount included under subsection 13(1) in respect of the class in computing the individual's income for the year, and

(B) the total of all amounts each of which is determined in respect of a disposition that is the making of a gift of property of the class made by the individual in the year that is included in the individual's total charitable gifts for the year and equal to the lesser of

(I) the proceeds of disposition of the property minus any outlays and expenses to the extent that they were made or incurred by the individual for the purpose of making the disposition, and

(II) the capital cost to the individual of the property, and

E is the total of all amounts each of which is the portion of an amount deducted under section 110.6 in computing the individual's taxable income for the year that can reasonably be considered to be in respect of a gift referred to in the description of B or C,

(5) Section 118.1 of the Act is amended by adding the following after subsection (2):

Ordering

(2.1) For the purposes of determining the total charitable gifts, total Crown gifts, total cultural gifts and total ecological gifts of an individual for a taxation year, no amount in respect of a gift described in any of the definitions of those expressions and made in a particular taxation year shall be considered to have been included in determining an amount that was deducted under this section in computing the individual's tax payable under this Part for a taxation year until amounts in respect of such gifts made in taxation years preceding the particular year that can be so considered are so considered.

(6) Subsections 118.1(4) and (5) of the Act are replaced by the following:

Gift in year of death

(4) Subject to subsection (13), a gift made by an individual in the particular taxation year in which the individual dies (including, for greater certainty, a gift otherwise deemed by subsection (5), (13) or (15) to have been so made) is deemed, for the purpose of this section other than this subsection, to have been made by the individual in the immediately preceding taxation year, and not in the particular year, to the extent that an amount

in respect of the gift is not deducted in computing the individual's tax payable under this Part for the particular year.

Gift by will

(5) Subject to subsection (13), where an individual by the individual's will makes a gift, the gift is, for the purpose of this section, deemed to have been made by the individual immediately before the individual died.

(7) Section 118.1 of the Act is amended by adding the following after subsection (11):

Ecological gifts

(12) For the purposes of section 207.31 and the definition "total ecological gifts" in subsection (1), the fair market value of a gift of a servitude, a covenant or an easement to which land is subject is deemed to be the greater of its fair market value otherwise determined and the amount by which the fair market value of the land is reduced as a result of the making of the gift.

Non-qualifying securities

(13) For the purpose of this section (other than this subsection), where at any particular time an individual makes a gift (including a gift that, but for this subsection and subsection (4), would be deemed by subsection (5) to be made at the particular time) of a non-qualifying security of the individual and the gift is not an excepted gift,

(a) except for the purpose of applying subsection (6) to determine the individual's proceeds of disposition of the security, the gift is deemed not to have been made;

(b) if the security ceases to be a non-qualifying security of the individual at a subsequent time that is within 60 months after the particular time and the donee has not disposed of the security at or before the subsequent time, the individual is deemed to have made a gift to the donee of property at the subsequent time and the fair market value of that gift is deemed to be the lesser of the fair market value of the security at the subsequent time and the amount of the gift made at the particular time that would, but for this subsection, have been included in the individual's total charitable gifts or total Crown gifts for a taxation year;

(c) if the security is disposed of by the donee within 60 months after the particular time and paragraph (b) does not apply to the

security, the individual is deemed to have made a gift to the donee of property at the time of the disposition and the fair market value of that gift is deemed to be the lesser of the fair market value of any consideration (other than a non-qualifying security of the individual or a property that would be a non-qualifying security of the individual if the individual were alive at that time) received by the donee for the disposition and the amount of the gift made at the particular time that would, but for this subsection, have been included in the individual's total charitable gifts or total Crown gifts for a taxation year; and

(d) a designation under subsection (6) or 110.1(3) in respect of the gift made at the particular time may be made in the individual's return of income for the year that includes the subsequent time referred to in paragraph (b) or the time of the disposition referred to in paragraph (c).

Exchanged security

(14) Where a share (in this subsection referred to as the "new share") that is a non-qualifying security of an individual has been acquired by a donee referred to in subsection (13) in exchange for another share (in this subsection referred to as the "original share") that is a non-qualifying security of the individual by means of a transaction to which section 51, subparagraphs 85.1(1)(a)(i) and (ii) or section 86 or 87 applies, the new share is deemed for the purposes of this subsection and subsection (13) to be the same share as the original share.

Death of donor

(15) If, but for this subsection, an individual would be deemed by subsection (13) to have made a gift after the individual's death, for the purpose of this section the individual is deemed to have made the gift in the taxation year in which the individual died, except that the amount of interest payable under any provision of this Act is the amount that it would be if this subsection did not apply to the gift.

Loanbacks

(16) For the purpose of this section, where

(a) at any particular time an individual makes a gift of property,

(b) if the property is a non-qualifying security of the individual, the gift is an excepted gift, and

(c) within 60 months after the particular time

(i) the donee holds a non-qualifying security of the individual that was acquired by the donee after the time that is 60 months before the particular time, or

(ii) where the individual and the donee do not deal at arm's length with each other,

(A) the individual or any person or partnership with which the individual does not deal at arm's length uses property of the donee under an agreement that was made or modified after the time that is 60 months before the particular time, and

(B) the property was not used in the carrying on of the donee's charitable activities,

the fair market value of the gift is deemed to be that value otherwise determined minus the total of all amounts each of which is the fair market value of the consideration given by the donee to so acquire a non-qualifying security so held or the fair market value of such a property so used, as the case may be.

Ordering rule

(17) For the purpose of applying subsection (16) to determine the fair market value of a gift made at any time by a taxpayer, the fair market value of consideration given to acquire property described in subparagraph (16)(b)(i) or of property described in subparagraph (16)(b)(ii) is deemed to be that value otherwise determined minus any portion of it that has been applied under that subsection to reduce the fair market value of another gift made before that time by the taxpayer.

Non-qualifying security defined

(18) For the purposes of this section, "non-qualifying security" of an individual at any time means

(a) an obligation (other than an obligation of a financial institution to repay an amount deposited with the institution or an obligation listed on a prescribed stock exchange) of the individual or the individual's estate or of any person or partnership with which the individual or the estate does not deal at arm's length immediately after that time;

(b) a share (other than a share listed on a prescribed stock exchange) of the capital stock of a corporation with which the

individual or the estate does not deal at arm's length immediately after that time; or

(c) any other security (other than a security listed on a prescribed stock exchange) issued by the individual or the estate or by any person or partnership with which the individual or the estate does not deal at arm's length immediately after that time.

Excepted gift

(19) For the purposes of this section, a gift made by a taxpayer is an excepted gift if

(a) the security is a share;

(b) the donee is not a private foundation;

(c) the taxpayer deals at arm's length with the donee; and

(d) where the donee is a charitable organization or a public foundation, the taxpayer deals at arm's length with each director, trustee, officer and like official of the donee.

Financial institution defined

(20) For the purpose of subsection (18), "financial institution" means a corporation that is

(a) a member of the Canadian Payments Association; or

(b) a credit union that is a shareholder or member of a body corporate or organization that is a central for the purposes of the *Canadian Payments Association Act*.

(8) Subsections (1), (2), (4) and (5) apply to taxation years that begin after 1996.

(9) Subsection (3) applies to gifts made after February 18, 1997.

(10) Subsection (6) and subsections 118.1(13) to (15) and (19) of the Act, as enacted by subsection (7), apply to gifts made after July 1997.

(11) Subsection 118.1(16) of the Act, as enacted by subsection (7), applies where

(a) a non qualifying security referred to in subparagraph 118.1(16)(c)(i) of the Act, as enacted by subsection (7), is acquired after July 1997; or

(b) property referred to in subparagraph 118.1(16)(c)(ii) of the Act, as enacted by subsection (7), has begun to be used after July 1997.

(12) Subsection 118.1(12) of the Act, as enacted by subsection (7), applies to gifts made after February 27, 1995.

(13) Subsections 118.1(17), (18) and (20) of the Act, as enacted by subsection (7), apply after July 1997.

23. (1) The portion of paragraph 118.2(2)(b.1) of the Act after subparagraph (iv) is replaced by the following:

to the extent that the total of amounts so paid does not exceed \$10,000 (or \$20,000 if the individual dies in the year);

(2) Subsection 118.2(2) of the Act is amended by adding the following after paragraph (1.3):

(1.4) on behalf of the patient who has a speech or hearing impairment, for sign language interpretation services, to the extent that the payment is made to a person engaged in the business of providing such services;

(1.5) for reasonable moving expenses (within the meaning of subsection 62(3), but not including any expense deducted under section 62 for any taxation year) of the patient, who lacks normal physical development or has a severe and prolonged mobility impairment, incurred for the purpose of the patient's move to a dwelling that is more accessible by the patient or in which the patient is more mobile or functional, if the total of the expenses claimed under this paragraph by all persons in respect of the move does not exceed \$2,000;

(1.6) for reasonable expenses relating to alterations to the driveway of the principal place of residence of the patient who has a severe and prolonged mobility impairment, to facilitate the patient's access to a bus;

(1.7) for a van that, at the time of its acquisition or within 6 months after that time, has been adapted for the transportation of the patient who requires the use of a wheelchair, to the extent of the lesser of \$5,000 and 20% of the amount by which

(i) the amount paid for the acquisition of the van exceeds

(ii) the portion, if any, of the amount referred to in subparagraph (i) that is included because of paragraph (m) in computing the individual's deduction under this section for any taxation year;

(3) Paragraph 118.2(2)(m) of the Act is amended by adding the following after subparagraph (iv):

to the extent that the amount so paid does not exceed the amount, if any, prescribed in respect of the device or equipment;

(4) Paragraph 118.2(3)(b) of the Act is replaced by the following:

(b) there shall not be included as a medical expense of an individual any expense to the extent that

(i) the individual,

(ii) the person referred to in subsection (2) as the patient,

(iii) any person related to a person referred to in subparagraph (i) or (ii), or

(iv) the legal representative of any person referred to in any of subparagraphs (i) to (iii)

is entitled to be reimbursed for the expense, except to the extent that the amount of the reimbursement is required to be included in computing income and is not deductible in computing taxable income.

(5) Subsections (1) to (4) apply to the 1997 and subsequent taxation years.

24. (1) Paragraph 118.3(1)(a.2) of the Act is replaced by the following:

(a.2) in the case of

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

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

(iii) an impairment not referred to in subparagraph (i) or (ii), a medical doctor

has certified in prescribed form that the impairment is a severe and prolonged mental or physical impairment the effects of which

are such that the individual's ability to perform a basic activity of daily living is markedly restricted,

(2) Subsection (1) applies to certifications made after February 18, 1997.

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

References to
medical
practitioners,
etc.

(2) For the purposes of sections 63, 118.2 and 118.3, a reference to an audiologist, dentist, medical doctor, medical practitioner, nurse, optometrist or pharmacist is a reference to a person authorized to practice as such

(2) Subsection (1) applies to taxation years that end after November 1991 except that, in applying subsection 118.4(2) of the Act, as enacted by subsection (1), before February 19, 1997, the reference in that subsection 118.4(2) to "an audiologist," shall be read as a reference to "a".

26. (1) Section 118.5 of the Act is amended by adding the following after subsection (2):

Inclusion of
ancillary fees
and charges

(3) For the purpose of this section, "fees for an individual's tuition" includes ancillary fees and charges that are paid

(a) to an educational institution referred to in subparagraph (1)(a)(i), and

(b) in respect of the individual's enrolment at the institution in a program at a post-secondary school level,

but does not include

(c) any fee or charge to the extent that it is levied in respect of

(i) a student association,

(ii) property to be acquired by students,

(iii) services not ordinarily provided at educational institutions in Canada that offer courses at a post-secondary school level,

(iv) the provision of financial assistance to students, except to the extent that, if the reference in paragraph 56(1)(n) to "\$500" were read as a reference to "nil", the amount of the assistance would be required to be included in computing the income, and not be deductible in computing the taxable income, of the students to whom the assistance is provided, or

(v) the construction, renovation or maintenance of any building or facility, except to the extent that the building or facility is owned by the institution and used to provide

(A) courses at the post-secondary school level, or

(B) services for which, if fees or charges in respect of the services were required to be paid by all students of the institution, the fees or charges would be included because of this subsection in the fees for an individual's tuition, and

(d) any fee or charge for a taxation year that, but for this paragraph, would be included because of this subsection in the fees for the individual's tuition and that is not required to be paid by

(i) all of the institution's full-time students, where the individual is a full-time student at the institution, and

(ii) all of the institution's part-time students, where the individual is a part-time student at the institution,

to the extent that the total for the year of all such fees and charges paid in respect of the individual's enrolment at the institution exceeds \$250.

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

27. (1) The formula in subsection 118.6(2) of the Act is replaced by the following:

$$A \times \$200 \times B$$

(2) Subsection (1) applies to the 1997 and subsequent taxation years except that, for the 1997 taxation year, the reference to "\$200" in the formula in subsection 118.6(2) of the Act, as enacted by subsection (1), shall be read as a reference to "\$150".

28. (1) The Act is amended by adding the following after section 118.6:

Unused tuition
and education
tax credits

118.61 (1) In this section, an individual's unused tuition and education tax credits at the end of a taxation year is the amount determined by the formula

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

where

- A is the individual's unused tuition and education tax credits at the end of the preceding taxation year;
- B is the total of all amounts each of which may be deducted under section 118.5 or 118.6 in computing the individual's tax payable under this Part for the year;
- C is the lesser of the value of B and the amount that would be the individual's tax payable under this Part for the year if no amount were deductible under section 118.5 or 118.6;
- D is the amount that the individual may deduct under subsection (2) for the year; and
- E is the tuition and education tax credits transferred for the year by the individual to the individual's spouse, parent or grandparent.

Deduction of
carryforward

(2) For the purpose of computing an individual's tax payable under this Part for a taxation year, there may be deducted the lesser of

- (a) the individual's unused tuition and education tax credits at the end of the preceding taxation year, and
- (b) the amount that would be the individual's tax payable under this Part for the year if no amount were deductible under section 118.5 or 118.6 or this section.

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

29. (1) The description of A in section 118.8 of the Act is replaced by the following:

A is the tuition and education tax credits transferred for the year by the spouse to the individual;

(2) The description of C in section 118.8 of the Act is replaced by the following:

C is the amount, if any, by which

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

exceeds

(b) the lesser of

(i) the total of all amounts that may be deducted under section 118.5 or 118.6 in computing the spouse's tax payable under this Part for the year, and

(ii) the amount that would be the spouse's tax payable under this Part for the year if no amount were deductible under this Division (other than an amount deductible under section 118, 118.3, 118.61 or 118.7).

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

30. (1) Section 118.9 of the Act is replaced by the following:

Tuition and
education tax
credits
transferred

118.81 In this subdivision, the tuition and education tax credits transferred for a taxation year by a person to an individual is the lesser of

(a) the amount determined by the formula

$$A - B$$

where

A is the lesser of

(i) the total of all amounts that may be deducted under section 118.5 or 118.6 in computing the person's tax payable under this Part for the year, and

(ii) \$850, and

B is the amount that would be the person's tax payable under this Part for the year if no amount were deductible under this Division (other than an amount deductible under section 118, 118.3, 118.61 or 118.7), and

(b) the amount for the year that the person designates in writing for the purpose of section 118.8 or 118.9.

Transfer to
parent or
grandparent

118.9 Where for a taxation year a parent or grandparent of an individual (other than an individual in respect of whom the individual's spouse deducts an amount under section 118 or 118.8 for the year) is the only person designated in writing by the individual for the year for the purpose of this section, there may be deducted in computing the tax payable under this Part for the year by the parent or grandparent, as the case may be, the tuition and education tax credits transferred for the year by the individual to the parent or grandparent, as the case may be.

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

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

Ordering of
credits

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

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

32. (1) The Act is amended by adding the following after section 122.5:

Definitions

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

"adjusted
income"
« *revenu
modifié* »

"adjusted income" of an individual for a taxation year has the meaning assigned by section 122.6.

"eligible
individual"
« *particulier
admissible* »

"eligible individual" for a taxation year means an individual (other than a trust)

(a) who is resident in Canada throughout the year (or, if the individual dies in the year, throughout the portion of the year before the individual's death);

(b) who, before the end of the year, has attained the age of 18 years; and

(c) whose incomes for the year from all

(i) offices and employments (computed without reference to paragraph 6(1)(f)), and

(ii) businesses each of which is a business carried on by the individual either alone or as a partner actively engaged in the business

total \$2,500 or more.

Deemed payment
on account of
tax

(2) Where a return of income (other than a return of income filed under subsection 70(2), paragraph 104(23)(d) or 128(2)(e) or subsection 150(4)) is filed in respect of an eligible individual for a particular taxation year that ends at the end of a calendar year, there is deemed to be paid at the end of the particular year on account of the individual's tax payable under this Part for the particular year the amount determined by the formula

where

A is the lesser of

(a) \$500, and

(b) 25/17 of the total of all amounts deducted under subsection 118.2(1) in computing the individual's tax payable under this Part for all taxation years that end in the calendar year; and

B is 5% of the amount, if any, by which

(a) the individual's adjusted income for the particular year exceeds

(b) \$16,069.

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

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

except that no amount shall be included in the total determined under any of paragraphs (a) to (e.2) in respect of an outlay, expense or expenditure that would, if this Act were read without reference to subsections (26) and 78(4), be made or incurred by the taxpayer in the course of earning income in a particular taxation year, and no amount shall be added under paragraph (b) in computing the taxpayer's investment tax credit at the end of a particular taxation year in respect of an outlay, expense or expenditure made or incurred by a trust or a partnership in the course of earning income, if

(l) any of the income is exempt income, or

(m) the taxpayer does not file with the Minister a prescribed form containing prescribed information in respect of the amount on or before the day that is one year after the taxpayer's filing-due date for the particular year;

(2) Paragraphs (e) to (g) of the definition "qualified expenditure" in subsection 127(9) of the Act are replaced by the following:

(f) an expenditure (other than an expenditure that is salary or wages of an employee of the taxpayer) incurred by the taxpayer in respect of scientific research and experimental development to the extent that it is performed by another person or

partnership at a time when the taxpayer and the person or partnership to which the expenditure is paid or payable do not deal with each other at arm's length,

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

(3) Paragraph (b) of the definition "taxable supplier" in subsection 127(9) of the Act is replaced by the following:

(b) a non-resident person, or a partnership that is not a Canadian partnership,

(i) by which the amount was payable, or

(ii) by or for whom the amount was receivable

in the course of carrying on a business through a permanent establishment (as defined by regulation) in Canada.

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

Reclassified
expenditures

(11.4) Paragraph (m) of the definition "investment tax credit" in subsection (9) does not apply to an expenditure incurred in a taxation year by a taxpayer if the expenditure is reclassified by the Minister on an assessment of the taxpayer's tax payable under this Part for the year, or on a determination that no tax under this Part is payable for the year by the taxpayer, as an expenditure in respect of scientific research and experimental development.

(5) Subsection 127(11.4) of the Act, as enacted by subsection (4), is repealed.

(6) Subsection (1) applies to all taxation years except that, if the taxpayer's filing-due date for the year is before June 1996, the taxpayer may file the prescribed form referred to in paragraph (m) of the definition "investment tax credit" in subsection 127(9) of the Act, as enacted by subsection (1), before June 1997, and, for the purposes of this subsection and subsection (1), the definition "filing-due date" in subsection 248(1) of the Act applies to all taxation years.

(7) Subsections (2) and (3) apply to taxation years that begin after 1995.

(8) Subsection (4) applies to the 1996 taxation year.

(9) Subsection (5) applies to the 1997 and subsequent taxation years.

34. (1) The description of A in paragraph 127.41(1)(a) of the Act is replaced by the following:

A is the tax payable under Part XII.4 by a qualifying environmental trust for a taxation year (in this paragraph referred to as the "trust's year") that ends in the particular year,

(2) Subsection (1) applies to taxation years that end after February 18, 1997.

35. (1) Subparagraph 127.52(1)(d)(i) of the Act is replaced by the following:

(i) sections 38 and 41 were read without the references therein to "3/4 of", other than in the case of a capital gain from a disposition that is the making of a gift of property to a qualified donee (as defined in subsection 149.1(1)), and

(2) Subsection (1) applies to taxation years that begin after 1996.

36. (1) Subparagraph 128.1(4)(b)(iii) of the Act is replaced by the following:

(iii) where the taxpayer is an individual, a right to receive a payment described in any of paragraphs 212(1)(h) and (j) to (q), a right under a registered education savings plan or a right to receive any payment of a benefit under the *Canada Pension Plan* or a provincial pension plan as defined in section 3 of that Act,

(2) Subsection (1) applies to changes of residence that occur after October 1, 1996.

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

"RRSP deduction
limit"
« *maximum
déductible au*

titre des REER

»

"RRSP deduction limit" of a taxpayer for a taxation year means the amount determined by the formula

$$A + B + R - C$$

where

A is the taxpayer's unused RRSP deduction room at the end of the preceding taxation year,

B is the amount, if any, by which

(a) the lesser of the RRSP dollar limit for the year and 18% of the taxpayer's earned income for the preceding taxation year

exceeds the total of all amounts each of which is

(b) the taxpayer's pension adjustment for the preceding taxation year in respect of an employer, or

(c) a prescribed amount in respect of the taxpayer for the year,

C is the taxpayer's net past service pension adjustment for the year, and

R is the taxpayer's total pension adjustment reversal for the year;

(2) Paragraph (b) of the definition "unused RRSP deduction room" in subsection 146(1) of the Act is replaced by the following:

(b) for taxation years that end after 1990, the amount, which can be positive or negative, determined by the formula

$$A + B + R - (C + D)$$

where

A is the taxpayer's unused RRSP deduction room at the end of the preceding taxation year,

B is the amount, if any, by which

(i) the lesser of the RRSP dollar limit for the year and 18% of the taxpayer's earned income for the preceding taxation year

exceeds the total of all amounts each of which is

(ii) the taxpayer's pension adjustment for the preceding taxation year in respect of an employer, or

(iii) a prescribed amount in respect of the taxpayer for the year,

C is the taxpayer's net past service pension adjustment for the year,

D is the total of the amounts deducted by the taxpayer under subsections (5) and (5.1) and paragraph 60(v) in computing the taxpayer's income for the year, and

R is the taxpayer's total pension adjustment reversal for the year.

(3) Paragraph (b.1) of the definition "earned income" in subsection 146(1) of the English version of the Act is replaced by the following:

(b.1) an amount received by the taxpayer in the year and at a time when the taxpayer is resident in Canada as, on account of, in lieu of payment of or in satisfaction of, a disability pension under the *Canada Pension Plan* or a provincial pension plan as defined in section 3 of that Act,

(4) Subsections (1) and (2) apply after 1988 except that, for taxation years before 1998, the description of "R" in the definition "RRSP deduction limit" in subsection 146(1) of the Act, as enacted by subsection (1), and in paragraph (b) of the definition "unused RRSP deduction room" in subsection 146(1) of the Act, as enacted by subsection (2), shall be read as "R is nil".

(5) Subsection (3) applies to amounts received after 1994.

38. (1) The definitions "pre-1972 income" and "tax-paid-income" in subsection 146.1(1) of the Act are repealed.

(2) The definitions "educational assistance payment", "education savings plan", "refund of payments" and "registered education savings plan" in subsection 146.1(1) of the Act are replaced by the following:

"educational
assistance
payment"
« *paiement
d'aide aux
études* »

"educational assistance payment" means any amount, other than a refund of payments, paid out of an education savings plan to or for an individual to assist the individual to further the individual's education at a post-secondary school level;

"education
savings plan"
« *régime
d'épargne-
études* »

"education savings plan" means a contract made at any time between

(a) either

(i) one individual (other than a trust), or

(ii) an individual (other than a trust) and the spouse of the individual, and

(b) a person or organization (in this section referred to as a "promoter")

under which the promoter agrees to pay or to cause to be paid educational assistance payments to or for one or more beneficiaries;

"refund of
payments"
« *remboursement
de paiements* »

"refund of payments" at any time under a particular registered education savings plan means

(a) a refund at that time of a contribution that had been made at a previous time, if the contribution was made

(i) otherwise than by way of a transfer from another registered education savings plan, and

(ii) into the particular plan by or on behalf of a subscriber under the particular plan, or

(b) a refund at that time of an amount that was paid at a previous time into the particular plan by way of a transfer from another registered education savings plan, where the amount would have been a refund of payments under the other plan if it had been paid at the previous time directly to a subscriber under the other plan;

"registered
education
savings plan"
« régime
enregistré
d'épargne-
études »

"registered education savings plan" means

(a) an education savings plan registered for the purposes of this Act, or

(b) a registered education savings plan as it is amended from time to time

but, except for the purposes of subsections (7) and (7.1) and Part X.4, a plan ceases to be a registered education savings plan immediately after the day as of which its registration is revoked under subsection (13);

(3) The portion of the definition "trust" in subsection 146.1(1) of the Act before paragraph (c) is replaced by the following:

"trust"
« fiducie »

"trust", except in this definition and the definition "education savings plan", means any person who irrevocably holds property under an education savings plan for any of, or any combination of, the following purposes:

(a) the payment of educational assistance payments,

(b) the payment after 1997 of accumulated income payments,

(4) Subsection 146.1(1) of the Act is amended by adding the following in alphabetical order:

"accumulated
income payment"
« paiement de
revenu accumulé
»

"accumulated income payment" under an education savings plan means any amount paid out of the plan, other than a payment described in any of paragraphs (a), (c), (d) and (e) of the definition "trust", to the extent that the amount so paid exceeds the fair market value of any consideration given to the plan for the payment of the amount;

"RESP annual
limit"
« *plafond
annuel de REEE*
»

"RESP annual limit" for a year means,

- (a) for 1990 to 1995, \$1,500,
- (b) for 1996, \$2,000, and
- (c) for 1997 and subsequent years, \$4,000;

"subscriber"
« *souscripteur*
»

"subscriber" under an education savings plan at any time means

- (a) each individual with whom the promoter of the plan entered into the plan,
- (b) an individual who has before that time acquired a subscriber's rights under the plan pursuant to a decree, order or judgment of a competent tribunal, or under a written agreement, relating to a division of property between the individual and a subscriber under the plan in settlement of rights arising out of, or on the breakdown of, their marriage, or
- (c) after the death of a subscriber under the plan, any other person (including the estate of the subscriber) who makes contributions into the plan in respect of a beneficiary

but does not include an individual who, before that time, disposed of the individual's rights as a subscriber under the plan in the circumstances described in paragraph (b);

(5) The portion of subsection 146.1(2) of the Act before paragraph (a) is replaced by the following:

Conditions for
registration

(2) The Minister shall not accept for registration for the purposes of this Act any education savings plan of a promoter unless, in the Minister's opinion, the following conditions are complied with:

(6) Paragraph 146.1(2)(b) of the Act is replaced by the following:

(b) at the time of the application by the promoter for registration of the plan, there are not fewer than 150 plans entered into with the promoter each of which complied, at the time it was entered into, with all the other conditions set out in this subsection, as it read at that time;

(7) Paragraph 146.1(2)(d) of the Act is replaced by the following:

(d) the plan does not allow for any payment before 1998 to a subscriber, other than a refund of payments, unless the subscriber is also the beneficiary under the plan;

(d.1) the plan does not allow accumulated income payments under the plan, or the plan allows an accumulated income payment at a particular time under the plan only if

(i) the payment is made to, or on behalf of, a person and not jointly to, or on behalf of, more than one person,

(ii) the particular time is after 1997,

(iii) the person is resident in Canada at the particular time,

(iv) either

(A) the person is a subscriber under the plan at the particular time, or

(B) an individual died at any previous time and was a subscriber under the plan immediately before death,

(v) each individual in respect of whom a subscriber has made a contribution into the plan

(A) has before the particular time attained 21 years of age and is not, at the particular time, eligible under the plan to receive an educational assistance payment, or

(B) has died before the particular time, and

(vi) either

(A) the particular time is after the 9th year that follows the year in which the plan was entered into, or

(B) each individual in respect of whom a subscriber has made a contribution into the plan has died before the particular

time and was, or was related to, a subscriber under the plan (or was the nephew, niece, great nephew or great niece of a subscriber under the plan);

(8) Paragraph 146.1(2)(g) of the Act is replaced by the following:

(g) the plan does not allow for the payment of educational assistance payments before 1997 to an individual unless the individual is, at the time the payment is made, a student in full-time attendance at a post-secondary educational institution and enrolled in a qualifying educational program at the institution;

(g.1) the plan does not allow for the payment of educational assistance payments after 1996 to an individual unless the individual is, at the time the payment is made, enrolled in a qualifying educational program as a full-time student at a post-secondary educational institution;

(g.2) the plan does not allow for any contribution into the plan, other than a contribution made by or on behalf of a subscriber under the plan in respect of a beneficiary under the plan or a contribution made by way of transfer from another registered education savings plan;

(9) Paragraph 146.1(2)(j) of the Act is replaced by the following:

(i.1) if the plan allows accumulated income payments in accordance with paragraph (d.1), the plan provides that it must be terminated before March of the year following the year in which the first such payment is made out of the plan;

(i.2) the plan does not allow for the receipt of property by way of direct transfer from another registered education savings plan after the other plan has made any accumulated income payment;

(j) if the plan allows more than one beneficiary under the plan at any one time, the plan provides

(i) that each of the beneficiaries under the plan is required to be connected to each living subscriber under the plan, or to have been connected to a deceased original subscriber under the plan, by blood relationship or adoption, and

(ii) that a contribution into the plan in respect of a beneficiary is permitted to be made only if

(A) the beneficiary had not attained 21 years of age at the time the plan was entered into,

(B) the contribution is made by way of transfer from another registered education savings plan into which a contribution had been made before the transfer in respect of the beneficiary, or

(C) the contribution is made (after a contribution to which clause (B) applied was made) into the plan in respect of the beneficiary;

(10) Paragraph 146.1(2)(k) of the Act is replaced by the following:

(k) the plan does not allow the total of all contributions made into the plan in respect of a beneficiary for a year (other than contributions made by way of transfer from registered education savings plans) to exceed the RESP annual limit for the year;

(11) Paragraph 146.1(2)(m) of the Act is replaced by the following:

(m) the Minister has no reasonable basis to believe that the promoter will not take all reasonable measures to ensure that the plan will continue to comply with the conditions set out in paragraphs (a), (c) to (d.1) and (f) to (l) for its registration for the purposes of this Act.

(12) Section 146.1 of the Act is amended by adding the following after subsection (4):

Obligation to
file amendment

(4.1) When a registered education savings plan is amended, the promoter shall file the text of the amendment with the Minister not later than 60 days after the day on which the plan is amended.

(13) Paragraph 146.1(6.1)(a) of the Act is repealed.

(14) Paragraph 146.1(6.1)(b) of the Act is replaced by the following:

(b) for the purposes of this paragraph, subparagraph (2)(d.1)(vi) and paragraphs (2)(h) and (i), the transferee plan is deemed to have been entered into on the day that is the earlier of

(i) the day on which the transferee plan was entered into, and

(ii) the day on which the transferor plan was entered into; and

(c) notwithstanding subsections (7) and (7.1), no amount shall be included in computing the income of any person because of the transfer.

(15) Subsections 146.1(7) to (10) of the Act are replaced by the following:

Educational
assistance
payments

(7) There shall be included in computing an individual's income for a taxation year the total of all educational assistance payments paid out of registered education savings plans to or for the individual in the year.

Other income
inclusions

(7.1) There shall be included in computing a taxpayer's income for a taxation year

(a) each accumulated income payment received in the year by the taxpayer under a registered education savings plan; and

(b) each amount received in the year by the taxpayer in full or partial satisfaction of a subscriber's interest under a registered education savings plan (other than any excluded amount in respect of the plan).

Excluded amount

(7.2) For the purpose of paragraph (7.1)(b), an excluded amount in respect of a registered education savings plan is

(a) any amount received under the plan;

(b) any amount received in satisfaction of a right to a refund of payments under the plan; or

(c) any amount received by a taxpayer under a decree, order or judgment of a competent tribunal, or under a written agreement, relating to a division of property between the taxpayer and the taxpayer's spouse or former spouse in settlement of rights arising out of, or on the breakdown of, their marriage.

(16) Subsections 146.1(13) and (14) of the Act are replaced by the following:

Notice of
intent to

revoke
registration

(12.1) When a particular day is

(a) a day on which a registered education savings plan ceases to comply with the conditions of subsection (2) for the plan's registration,

(b) a day on which a registered education savings plan ceases to comply with any provision of the plan, or

(c) the last day of a month in respect of which tax is payable under Part X.4 by an individual because of contributions made, or deemed for the purpose of Part X.4 to have been made, by or on behalf of the individual into a registered education savings plan,

the Minister may send written notice (referred to in this subsection and subsection (12.2) as a "notice of intent") to the promoter of the plan that the Minister proposes to revoke the registration of the plan as of the day specified in the notice of intent, which day shall not be earlier than the particular day.

Notice of
revocation

(12.2) When the Minister sends a notice of intent to revoke the registration of a registered education savings plan to the promoter of the plan, the Minister may, after 30 days after the receipt by the promoter of the notice, send written notice (referred to in this subsection and subsection (13) as a "notice of revocation") to the promoter that the registration of the plan is revoked as of the day specified in the notice of revocation, which day shall not be earlier than the day specified in the notice of intent.

Revocation of
registration

(13) When the Minister sends a notice of revocation of the registration of a registered education savings plan under subsection (12.2) to the promoter of the plan, the registration of the plan is revoked as of the day specified in the notice of revocation, unless the Federal Court of Appeal or a judge thereof, on application made at any time before the determination of an appeal under subsection 172(3), orders otherwise.

(17) Section 146.1 of the Act is amended by adding the following:

Regulations

(15) The Governor in Council may make regulations requiring promoters of education savings plans to file information returns in respect of the plans.

(18) Subsection (1), the definitions "educational assistance payment" and "registered education savings plan" in subsection 146.1(1) of the Act, as enacted by subsection (2), subsection (3), the definition "accumulated income payment" in subsection 146.1(1) of the Act, as enacted by subsection (4), paragraph 146.1(6.1)(b) of the Act, as enacted by subsection (14), and subsection (16) apply after 1997.

(19) The definition "education savings plan" in subsection 146.1(1) of the Act, as enacted by subsection (2), and the definition "subscriber" in subsection 146.1(1) of the Act, as enacted by subsection (4), apply to contracts made after 1997.

(20) The definition "refund of payments" in subsection 146.1(1) of the Act, as enacted by subsection (2), and paragraph 146.1(2)(g.2) of the Act, as enacted by subsection (8), apply to the 1997 and subsequent taxation years.

(21) The definition "RESP annual limit" in subsection 146.1(1) of the Act, as enacted by subsection (4), applies after 1989.

(22) Subsections (5), (6) and (11) apply to applications made after 1997.

(23) Subsections (7), (9) and (15) apply to the 1998 and subsequent taxation years, except that

(a) paragraph 146.1(2)(j) of the Act, as enacted by subsection (9), does not apply to plans entered into before July 14, 1990; and

(b) subparagraph 146.1(2)(j)(ii) of the Act, as enacted by subsection (9), does not apply to plans entered into before 1998.

(24) Paragraphs 146.1(2)(g) and (g.1) of the Act, as enacted by subsection (8), apply to plans entered into after February 20, 1990 except that, for plans entered into before 1998, the reference to "an individual" in the latter paragraph shall be read as "a beneficiary" and the reference to "the individual" in the latter paragraph shall be read as "the beneficiary".

(25) Subsection (10) applies to plans entered into after February 20, 1990.

(26) Subsection (13) applies to transfers made after 1996.

(27) Paragraph 146.1(6.1)(c) of the Act, as enacted by subsection (14), applies to transfers made after 1997.

39. (1) Paragraph 147.1(18)(d) of the Act is replaced by the following:

(d) requiring administrators of registered pension plans to make determinations in connection with the computation of pension adjustments, past service pension adjustments, total pension adjustment reversals or any other related amounts (all such amounts referred to in this subsection as "specified amounts");

(2) Paragraph 147.1(18)(t) of the Act is replaced by the following:

(t) defining, for the purposes of this Act, the expressions "multi-employer plan", "past service event", "past service pension adjustment", "pension adjustment", "specified multi-employer plan" and "total pension adjustment reversal"; and

(3) Subsections (1) and (2) apply after 1996.

40. (1) Section 147.3 of the Act is amended by adding the following after subsection (14):

Transfer of
property
between
provisions

(14.1) Where property held in connection with a benefit provision of a registered pension plan is made available to pay benefits under another benefit provision of the plan, subsections (9) to (11) apply in respect of the transaction by which the property is made so available in the same manner as they would apply if the other benefit provision were in another registered pension plan.

(2) Subsection (1) applies to transactions that occur after July 30, 1997.

41. (1) Paragraph 149(1)(z) of the Act is replaced by the following:

Qualifying
environmental
trust

(z) a qualifying environmental trust.

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

41.1 (1) The portion of subsection 149.1(6.4) of the Act after paragraph (d) is replaced by the following:

applies in prescribed form to the Minister of National Revenue for registration, that Minister may register the organization for the purposes of this Act and, where the organization so applies or is so registered, this section, paragraph 38(a.1), sections 110.1, 118.1, 168, 172, 180 and 230 and Part V apply, with such modifications as the circumstances require, to the organization as if it were an applicant for registration as a charitable organization or as if it were a registered charity that is designated as a charitable organization, as the case may be.

(2) Subsection (1) applies after February 18, 1997.

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

(b) the amount of tax, if any, deemed by subsection 120(2), 122.5(3), 122.51(2), 125.4(3), 125.5(3), 127.1(1), 127.41(3) or 210.2(3) or (4) to be paid on account of the taxpayer's tax payable under this Part for the year.

(2) Paragraph 152(4.2)(d) of the Act is replaced by the following:

(d) redetermine the amount, if any, deemed by subsection 120(2), 122.5(3), 122.51(2), 127.1(1), 127.41(3) or 210.2(3) or (4) to be paid on account of the taxpayer's tax payable under this Part for the year or deemed by subsection 122.61(1) to be an overpayment on account of the taxpayer's liability under this Part for the year.

(3) Subsections (1) and (2) apply to the 1997 and subsequent taxation years except that, for the 1997 taxation year, the references to "subsection 120(2)," in paragraphs 152(1)(b) and (4.2)(d) of the Act, as enacted by subsections (1) and (2), respectively, shall be read as references to "subsection 120(2), 120.1(4),".

43. (1) Subsection 153(1) of the Act is amended by striking out the word "or" at the end of paragraph (q) and by adding the following after paragraph (r):

(s) an amount described in paragraph 56(1)(r), or

(t) a payment made under a plan that was a registered education savings plan

(2) Paragraph 153(1)(s) of the Act, as enacted by subsection (1), applies to payments made after 1992.

(3) Paragraph 153(1)(t) of the Act, as enacted by subsection (1), applies to payments made after 1997.

44. (1) The description of A in paragraph (b) of the definition "net tax owing" in subsection 156.1(1) of the Act is replaced by the following:

A is the total of the taxes payable under this Part and Parts I.1, I.2 and X.5 by the individual for the year,

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

45. (1) Paragraph 163(2)(c.2) of the Act is replaced by the following:

(c.2) the amount, if any, by which

(i) the amount that would be deemed under subsection 122.51(2) to be paid on account of the person's tax payable under this Part for the year if the amount were calculated by reference to the information provided in the return

exceeds

(ii) the amount that is deemed under subsection 122.51(2) to be paid on account of the person's tax payable under this Part for the year,

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

46. (1) Paragraph 172(3)(e) of the Act is replaced by the following:

(e) refuses to accept for registration for the purposes of this Act an education savings plan,

(e.1) sends notice under subsection 146.1(12.1) to a promoter that the Minister proposes to revoke the registration of an education savings plan,

(2) The portion of subsection 172(3) of the Act after paragraph (g) is replaced by the following:

the applicant or the organization, foundation, association or registered charity, as the case may be, in a case described in paragraph (a) or (a.1), the applicant in a case described in paragraph (b), (d), (e) or (g), a trustee under the plan or an employer of employees who are beneficiaries under the plan, in a case described in paragraph (c), the promoter in a case described

in paragraph (e.1), or the administrator of the plan or an employer who participates in the plan, in a case described in paragraph (f) or (f.1), may appeal from the Minister's decision, or from the giving of the notice by the Minister, to the Federal Court of Appeal.

(3) Subsections (1) and (2) apply after 1997.

47. (1) Subsection 180(1) of the Act is amended by striking out the word "or" at the end of paragraph (c) and by adding the following after paragraph (c):

(c.1) the sending of a notice to a promoter of a registered education savings plan under subsection 146.1(12.1), or

(2) Subsection (1) applies after 1997.

48. (1) The description of C in subsection 190.1(1.2) of the Act is replaced by the following:

C is the number of days in the year that are after February 27, 1995 and before November 1998.

(2) Subsection (1) applies to taxation years that end after February 27, 1995.

49. (1) The formula in paragraph 204.2(1.1)(b) of the Act is replaced by the following:

$$A + B + R + C + D + E$$

(2) Paragraph 204.2(1.1)(b) of the Act is amended by striking out the word "and" at the end of the description of D, by adding the word "and" at the end of the description of E and by adding the following after the description of E:

R is the individual's total pension adjustment reversal for the year.

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

50. (1) The heading "REGISTERED LABOUR-SPONSORED VENTURE CAPITAL CORPORATIONS" before section 204.8 of the Act is replaced by the following:

LABOUR-SPONSORED VENTURE CAPITAL CORPORATIONS

(2) Subsection (1) applies after February 18, 1997.

51. (1) The portion of the definition "eligible investment" in section 204.8 of the Act after paragraph (d) is replaced by the following:

if the following conditions are satisfied:

(e) immediately after the time the share or debt obligation was issued, the guarantee was provided or the option or right was granted, as the case may be, the total of the costs to the particular corporation of all shares, options, rights and debt obligations of the eligible business entity and all corporations related to it and 25% of the amount of all guarantees provided by the particular corporation in respect of debt obligations of the eligible business entity and the related corporations does not exceed the lesser of \$15,000,000 and 10% of the shareholders' equity in the particular corporation, determined in accordance with generally accepted accounting principles, on a cost basis and without taking into account any unrealized gains or losses on the investments of the particular corporation, and

(f) immediately before the time the share or debt obligation was issued, the guarantee was provided or the option or right was granted, as the case may be,

(i) the carrying value of the total assets of the eligible business entity and all corporations (other than prescribed labour-sponsored venture capital corporations) related to it (determined in accordance with generally accepted accounting principles on a consolidated or combined basis, where applicable) did not exceed \$50,000,000, and

(ii) the total of

(A) the number of employees of the eligible business entity and all corporations related to it who normally work at least 20 hours per week for the entity and the related corporations, and

(B) 1/2 of the number of other employees of the entity and the related corporations,

did not exceed 500;

(2) Subsection (1) applies to property acquired after February 18, 1997.

52. (1) Clause 204.81(1)(c)(ii)(C) of the Act is replaced by the following:

(C) any additional classes of shares that are authorized, if the rights, privileges, restrictions and conditions attached to the shares are approved by the Minister of Finance,

(2) Subsection (1) applies after 1996.

53. (1) The portion of subsection 204.82(2) of the English version of the Act before paragraph (a) is replaced by the following:

Liability for
tax

(2) Where, at any time in a month in a particular taxation year of a corporation that was registered under this Part that began after the end of the corporation's last taxation year referred to in paragraph 204.81(6)(g), 60% of the least of

(2) Subsection 204.82(2) of the Act is amended by striking out the word "and" at the end of paragraph (a) and by adding the following after that paragraph:

(a.1) the amount of the shareholders' equity in the corporation determined at the end of the second taxation year before the particular taxation year, without taking into account any unrealized gains or losses in respect of eligible investments of the corporation, and

(3) Subsection 204.82(2) of the Act, as amended by subsections (1) and (2), is replaced by the following:

Liability for
tax

(2) Each corporation that has been registered under this Part shall, in respect of each month that ends in a particular taxation year of the corporation that begins after the end of the corporation's last taxation year referred to in paragraph 204.81(6)(g), pay a tax under this Part equal to the amount obtained when the greatest investment shortfall at any time that is in the month and in the particular year (in this section and sections 204.81 and 204.83 referred to as the "monthly deficiency") is multiplied by 1/60 of the prescribed rate of interest during the month.

Determination
of investment
shortfall

(2.1) Subject to subsection (2.2), a corporation's investment shortfall at any time in a particular taxation year is the amount determined by the formula

$$A - B$$

where

A is 60% of the lesser of

(a) the amount of the shareholders' equity in the corporation at the end of the preceding taxation year, and

(b) the amount of the shareholders' equity in the corporation at the end of the particular year; and

B is the greater of

(a) the total of all amounts each of which is the adjusted cost to the corporation of an eligible investment of the corporation at that time, and

(b) 50% of the total of all amounts each of which is

(i) the adjusted cost to the corporation of an eligible investment of the corporation at the beginning of the particular year, or

(ii) the adjusted cost to the corporation of an eligible investment of the corporation at the end of the particular year.

Investment
shortfall

(2.2) For the purpose of computing a corporation's investment shortfall under subsection (2.1) at any time in a taxation year (in this subsection referred to as the "relevant year"),

(a) unrealized gains and losses in respect of its eligible investments shall not be taken into account in computing the amount of the shareholders' equity in the corporation;

(b) where

(i) the relevant year ends after 1998, and

(ii) it is expected that a redemption of its Class A shares will occur after the end of a particular taxation year and, as a consequence, the amount of the shareholders' equity in the

corporation at the end of the particular year would otherwise be reduced to take into account the expected redemption,

subject to paragraph (c), the amount (or, where the relevant year ends in 1999, 2000, 2001 or 2002, 20%, 40%, 60% or 80%, respectively of the amount) expected to be redeemed shall not be taken into account in determining the amount of the shareholders' equity in the corporation at the end of the particular year;

(c) paragraph (b) does not apply to a redemption expected to be made after the end of a taxation year where

(i) the redemption is made within 60 days after the end of the year, and

(ii) either

(A) tax under Part XII.5 became payable as a consequence of the redemption, or

(B) tax under Part XII.5 would not have become payable as a consequence of the redemption if the redemption had occurred at the end of the year; and

(d) the adjusted cost to the corporation of an eligible investment of the corporation at any time is

(i) where the eligible investment is a property acquired by the corporation after February 18, 1997 that would be an eligible investment of the corporation if the reference to "\$50,000,000" in paragraph (f) of the definition "eligible investment" in section 204.8 were read as "\$10,000,000", 150% of the cost to the corporation of the eligible investment of the corporation at that time, and

(ii) in any other case, the cost to the corporation of the eligible investment of the corporation at that time.

(4) Section 204.82 of the Act is amended by adding the following after subsection (4):

Provincially
registered
LSVCCs

(5) Where

(a) an amount (other than interest on an amount to which this subsection applies or an amount payable under or as a consequence of a prescribed provision of a law of a province) is payable to the government of a province by a corporation,

(b) the amount is payable as a consequence of a failure to acquire sufficient properties of a character described in the law of the province,

(c) the corporation has been prescribed for the purpose of the definition "approved share" in subsection 127.4(1), and

(d) the corporation is not a registered labour-sponsored venture capital corporation or a revoked corporation,

the corporation shall pay a tax under this Part for the taxation year in which the amount became payable equal to that amount.

(5) Subsections (1) and (2) apply to taxation years that end after 1994 and before March 1997.

(6) Subsection (3) applies to taxation years that end after February 1997 except that, for taxation years that end before 1999, the amount determined under paragraph (b) of the description of B in subsection 204.82(2.1) of the Act, as enacted by subsection (3), is deemed to be nil.

(7) Subsection (4) applies to liabilities arising after February 18, 1997.

54. (1) Section 204.83 of the Act is replaced by the following:

Refunds for
federally
registered
LSVCCs

204.83 (1) If a corporation is required, under subsections 204.82(3) and (4), to pay a tax and a penalty under this Part for a taxation year and, throughout any period of 12 consecutive months (in this section referred to as the "second period") that begins after the 12-month period in respect of which the tax became payable (in this section referred to as the "first period"), the corporation has no monthly deficiency and files with the Minister the return required under this Part for the taxation year in which the second period ends, the Minister shall refund to the corporation an amount equal to the total of the amount that was paid under subsection 204.82(3) and 80% of the amount that was paid under subsection 204.82(4) in respect of the first period.

Refunds for
other LSVCCs

(2) Where

(a) the government of a province refunds, at any time, an amount to a corporation,

(b) the refund is of an amount that had been paid in satisfaction of a particular amount payable in a taxation year of the corporation, and

(c) tax was payable under subsection 204.82(5) by the corporation for a taxation year because the particular amount became payable,

the corporation is deemed to have paid at that time an amount equal to the refund on account of its tax payable under this Part for the year.

(2) Subsection (1) applies after February 18, 1997.

55. (1) Section 204.85 of the Act is replaced by the following:

Dissolution of
federally
registered
LSVCCs

204.85 (1) If a registered labour-sponsored venture capital corporation or a revoked corporation has issued any Class A shares, it shall not be amalgamated or merged with another corporation, or be liquidated or dissolved, except with the written permission of the Minister of Finance and on any terms and conditions that are specified by that Minister.

Dissolution of
other LSVCCs

(2) Where

(a) an amount (other than interest on an amount to which this subsection applies or an amount payable under or as a consequence of a prescribed provision of a law of a province) is payable to the government of a province by a corporation,

(b) the amount is payable as a consequence of the amalgamation or merger of the corporation with another corporation, the winding-up or dissolution of the corporation or the corporation ceasing to be registered under a law of the province,

(c) the corporation has been prescribed for the purpose of the definition "approved share" in subsection 127.4(1), and

(d) the corporation is not a registered labour-sponsored venture capital corporation or a revoked corporation,

the corporation shall pay a tax under this Part for the taxation year in which the amount became payable equal to that amount.

(2) Subsection 204.85(1) of the Act, as enacted by subsection (1), applies after July 1997.

(3) Subsection 204.85(2) of the Act, as enacted by subsection (1), applies after February 18, 1997.

56. (1) Section 204.86 of the Act is replaced by the following:

Return and
payment of tax
for federally-
registered
LSVCCs

204.86 (1) Every registered labour-sponsored venture capital corporation and every revoked corporation shall

(a) on or before its filing-due date for a taxation year, file with the Minister a return for the year under this Part in prescribed form and containing prescribed information, without notice or demand therefor;

(b) estimate in the return the amount of tax and penalties, if any, payable under this Part by it for the year; and

(c) within 90 days after the end of the year, pay to the Receiver General the amount of tax and penalties, if any, payable under this Part by it for the year.

Return and
payment of tax
for other
LSVCCs

(2) Where tax is payable under this Part for a taxation year by a corporation because of subsection 204.82(5) or 204.85(2), the corporation shall

(a) on or before its filing-due date for the year, file with the Minister a return for the year under this Part in prescribed form and containing prescribed information, without notice or demand therefor;

(b) estimate in the return the amount of tax payable under this Part by it for the year; and

(c) within 90 days after the end of the year, pay to the Receiver General the amount of tax payable under this Part by it for the year.

(2) Subsection (1) applies to taxation years that end after February 18, 1997.

57. (1) Subsection 204.9(1) of the Act is replaced by the following:

Definitions

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

"excess amount"
« *excédent* »

"excess amount" for a year at any time in respect of an individual means the amount, if any, by which the total of all contributions made after February 20, 1990 in the year and before that time into all registered education savings plans by or on behalf of all subscribers in respect of the individual exceeds the lesser of

(a) the RESP annual limit for the year, and

(b) the amount, if any, by which the RESP lifetime limit for the year exceeds the total of all contributions made into registered education savings plans by or on behalf of all subscribers in respect of the individual in all preceding years.

"RESP lifetime
limit"
« *plafond
cumulatif de
REEE* »

"RESP lifetime limit" for a year means,

(a) for 1990 to 1995, \$31,500; and

(b) for 1996 and subsequent years, \$42,000.

"subscriber's
gross
cumulative
excess"
« *excédent
cumulatif brut*

du souscripteur

»

"subscriber's gross cumulative excess" at any time in respect of an individual means the total of all amounts each of which is the subscriber's share of the excess amount for a relevant year at that time in respect of the individual and, for the purpose of this definition, a relevant year at any time is a year that began before that time.

"subscriber's
share of the
excess amount"

« *part du
souscripteur
sur l'excédent*

»

"subscriber's share of the excess amount" for a year at any time in respect of an individual means the amount determined by the formula

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

where

- A is the total of all contributions made after February 20, 1990, in the year and before that time into all registered education savings plans by or on behalf of the subscriber in respect of the individual;
- B is the total of all contributions made after February 20, 1990, in the year and before that time into all registered education savings plans by or on behalf of all subscribers in respect of the individual; and
- C is the excess amount for the year at that time in respect of the individual.

(2) Subsection 204.9(4) of the Act is replaced by the following:

New beneficiary

(4) For the purposes of this Part, if at any particular time an individual (in this subsection referred to as the "new beneficiary") becomes a beneficiary under a registered education savings plan in place of another individual (in this subsection referred to as the "former beneficiary") who ceased at or before the particular time to be a beneficiary under the plan,

(a) except as provided by paragraph (b), each contribution made at an earlier time by or on behalf of a subscriber into the plan in respect of the former beneficiary is deemed also to have been made at that earlier time in respect of the new beneficiary;

(b) except for the purpose of applying this subsection to a replacement of a beneficiary after the particular time, applying subsection (5) to a distribution after the particular time and applying subsection 204.91(3) to events after the particular time, paragraph (a) does not apply as a consequence of the replacement at the particular time of the former beneficiary where the new beneficiary had not attained 21 years of age at the particular time and a parent of the new beneficiary was a parent of the former beneficiary; and

(c) except where paragraph (b) applies, each contribution made by or on behalf of a subscriber under the plan in respect of the former beneficiary under the plan is, without affecting the determination of the amount withdrawn from the plan in respect of the new beneficiary, deemed to have been withdrawn at the particular time from the plan to the extent that it was not withdrawn before the particular time.

Transfers between plans

(5) For the purposes of this Part, if property held by a trust governed by a registered education savings plan (in this subsection referred to as the "transferor plan") is distributed at a particular time to a trust governed by another registered education savings plan (in this subsection referred to as the "transferee plan"),

(a) except as provided by paragraphs (b) and (c), the amount of the distribution is deemed not to have been contributed into the transferee plan;

(b) subject to paragraph (c), each contribution made at any earlier time by or on behalf of a subscriber into the transferor plan in respect of a beneficiary under the transferor plan is deemed also to have been made at that earlier time by the subscriber in respect of each beneficiary under the transferee plan;

(c) except for the purpose of applying this subsection to a distribution after the particular time, applying subsection (4) to a replacement of a beneficiary after the particular time and applying subsection 204.91(3) to events after the particular time, paragraph (b) does not apply as a consequence of the distribution where

(i) any beneficiary under the transferee plan was, immediately before the particular time, a beneficiary under the transferor plan, or

(ii) a beneficiary under the transferee plan had not attained 21 years of age at the particular time and a parent of the beneficiary was a parent of an individual who was, immediately before the particular time, a beneficiary under the transferor plan;

(d) where subparagraph (c)(i) or (ii) applies in respect of the distribution, the amount of the distribution is deemed not to have been withdrawn from the transferor plan; and

(e) each subscriber under the transferor plan is deemed to be a subscriber under the transferee plan.

(3) Subsection (1) applies for the purpose of determining tax under Part X.4 of the Act for months that are after 1996.

(4) Subsection (2) applies to replacements of beneficiaries and distributions that occur after 1996.

58. (1) Section 204.91 of the Act is replaced by the following:

Tax payable by
subscribers

204.91 (1) Every subscriber under a registered education savings plan shall pay a tax under this Part in respect of each month equal to 1% of the amount, if any, by which

(a) the total of all amounts each of which is the subscriber's gross cumulative excess at the end of the month in respect of an individual

exceeds

(b) the total of all amounts each of which is the portion of such an excess that has been withdrawn from a registered education savings plan before the end of the month.

Waiver of tax

(2) If a subscriber under a registered education savings plan would, but for this subsection, be required to pay a tax in respect of a month under subsection (1) in respect of an individual, the Minister may waive or cancel all or part of the tax where it is just and equitable to do so having regard to all the circumstances, including

(a) whether the tax arose as a consequence of reasonable error;

(b) whether, as a consequence of one or more transactions or events to which subsection 204.9(4) or (5) applies, the tax is excessive; and

(c) the extent to which further contributions could be made into registered education savings plans in respect of the individual before the end of the month without causing additional tax to be payable under this Part if this Part were read without reference to this subsection.

Marriage breakdown

(3) If at any time an individual (in this subsection referred to as the "former subscriber") ceases to be a subscriber under a registered education savings plan as a consequence of the settlement of rights arising out of, or on the breakdown of, the marriage of the former subscriber and another individual (in this subsection referred to as the "current subscriber") who is a subscriber under the plan immediately after that time, for the purpose of determining tax payable under this Part in respect of a month that ends after that time, each contribution made before that time into the plan by or on behalf of the former subscriber is deemed to have been made into the plan by the current subscriber and not by or on behalf of the former subscriber.

Deceased subscribers

(4) For the purpose of applying this section where a subscriber has died, the subscriber's estate is deemed to be the same person as, and a continuation of, the subscriber for each month that ends after the death.

(2) Subsection 204.91(1) of the Act, as enacted by subsection (1), applies for the purpose of determining tax under Part X.4 of the Act for months that are after 1996.

(3) Subsection 204.91(2) of the Act, as enacted by subsection (1), applies for the purpose of determining tax under Part X.4 of the Act for months that are after January 1990.

(4) Subsections 204.91(3) and (4) of the Act, as enacted by subsection (1), apply for the purpose of determining tax under Part X.4 of the Act for months that are after 1997.

59. (1) The Act is amended by adding the following after Part X.4:

PART X.5

PAYMENTS UNDER REGISTERED EDUCATION SAVINGS PLANS

Definitions

204.94 (1) The definitions in subsection 146.1(1) apply for the purposes of this Part, except that the definition "subscriber" in that subsection shall be read without reference to paragraph (c).

Charging provision

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

$$0.2 \times (A + B - C)$$

where

A is the total of all amounts each of which is an accumulated income payment made at any time that is

(a) either

(i) under a registered education savings plan under which the person is a subscriber at that time, or

(ii) under a registered education savings plan under which there is no subscriber at that time, where the person has been a spouse of an individual who was a subscriber under the plan, and

(b) included in computing the person's income under Part I for the year;

B is the total of all amounts each of which is an accumulated income payment that is

(a) not included in the value of A in respect of the person for the year, and

(b) included in computing the person's income under Part I for the year; and

C is the lesser of

(a) the lesser of the value of A in respect of the person for the year and the total of all amounts each of which is an amount deducted under subsection 146(5) or (5.1) in computing the person's income under Part I for the year, and

(b) the amount, if any, by which \$40,000 exceeds the total of all amounts each of which is an amount determined under paragraph (a) in respect of the person for a preceding taxation year.

Return and
payment of tax

(3) Every person who is liable to pay tax under this Part for a taxation year shall, on or before the person's filing-due date for the year,

(a) file with the Minister a return for the year under this Part in prescribed form and containing prescribed information, without notice or demand therefor;

(b) estimate in the return the amount of tax payable under this Part by the person for the year; and

(c) pay to the Receiver General the amount of tax payable under this Part by the person for the year.

Administrative
rules

(4) Subsections 150(2) and (3), sections 152, 155 to 156.1 and 158 to 167 and Division J of Part I apply with any modifications that the circumstances require.

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

60. (1) The heading "TAX ON MINING RECLAMATION TRUSTS" before section 211.6 of the Act is replaced by the following:

TAX ON QUALIFYING ENVIRONMENTAL TRUSTS

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

61. (1) Subsections 211.6(1) to (4) of the Act are replaced by the following:

Charging
provision

211.6 (1) Every trust that is a qualifying environmental trust at the end of a taxation year shall pay a tax under this Part for the year equal to 28% of its income under Part I for the year.

Computation of
income

(2) For the purpose of subsection (1), the income under Part I of a qualifying environmental trust shall be computed as if this Act were read without reference to subsections 104(4) to (31) and sections 105 to 107.

Return

(3) Every trust that is a qualifying environmental trust at the end of a taxation year shall file with the Minister on or before its filing-due date for the year a return for the year under this Part in prescribed form containing an estimate of the amount of its tax payable under this Part for the year.

Payment of tax

(4) Every trust shall pay to the Receiver General its tax payable under this Part for each taxation year on or before its balance-due day for the year.

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

62. (1) Paragraph 212(1)(r) of the Act is replaced by the following:

Registered
education
savings plan

(r) a payment that is

(i) required by paragraph 56(1)(q) to be included in computing the non-resident person's income under Part I for a taxation year, and

(ii) not required to be included in computing the non-resident person's taxable income or taxable income earned in Canada for the year;

(2) Subsection (1) applies to amounts paid or credited after February 28, 1979.

63. (1) Paragraph 214(3)(j) of the Act is repealed.

(2) Subsection (1) applies after 1997.

64. (1) Subparagraph 217(3)(b)(ii) of the Act is replaced by the following:

(ii) the person's income (computed without reference to subsection 56(8)) for the year minus the total of such of the deductions permitted for the purpose of computing taxable income as can reasonably be considered wholly applicable to the amounts described in subparagraphs 115(1)(a)(i) to (vi).

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

65. Section 241 of the Act is amended by adding the following after subsection (3.1):

Registered
charities

(3.2) An official may provide to any person the following taxpayer information relating to a charity that at any time was a registered charity:

(a) a copy of the charity's governing documents, including its statement of purpose;

(b) any information provided in prescribed form to the Minister by the charity on applying for registration under this Act;

(c) the names of the persons who at any time were the charity's directors and the periods during which they were its directors;

(d) a copy of the notification of the charity's registration, including any conditions and warnings; and

(e) if the registration of the charity has been revoked, a copy of any letter sent by or on behalf of the Minister to the charity relating to the grounds for the revocation.

66. (1) The definition "mining reclamation trust" in subsection 248(1) of the Act is repealed.

(2) Paragraph (e.2) of the definition "cost amount" in subsection 248(1) of the Act is replaced by the following:

(e.2) where the property is an interest of a beneficiary under a qualifying environmental trust, nil, and

(3) Subsection 248(1) of the Act is amended by adding the following in alphabetical order:

"private
foundation"
« *fondation
privée* »

"private foundation" has the meaning assigned by section 149.1;

"public
foundation"
« *fondation
publique* »

"public foundation" has the meaning assigned by section 149.1;

"qualifying
environmental
trust"
« *fiducie pour
l'environnement
admissible* »

"qualifying environmental trust" at any time means a trust resident in a province and maintained at that time for the sole purpose of funding the reclamation of a site in the province that had been used primarily for, or for any combination of, the operation of a mine, the extraction of clay, peat, sand, shale or aggregates (including dimension stone and gravel) or the deposit of waste, where the maintenance of the trust is or may become required under the terms of a contract entered into with Her Majesty in right of Canada or the province or is or may become required under a law of Canada or the province and the contract was entered into or that law was enacted, as the case may be, on or before the later of January 1, 1996 and the day that is one year after the day on which the trust was created, but does not include a trust

(a) that relates at that time to the reclamation of a well,

(b) that is not maintained at that time to secure the reclamation obligations of one or more persons or partnerships that are beneficiaries under the trust,

(c) that at that time has a trustee other than

(i) Her Majesty in right of Canada or the province, or

(ii) a corporation resident in Canada that is licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee,

(d) that borrows money at that time,

(e) that acquired at that time any property that is not described in any of paragraphs (a), (b) and (f) of the definition "qualified investment" in section 204,

(f) to which the first contribution was made before 1992,

(g) from which any amount was distributed before February 23, 1994,

(h) if that time is before 1998 and the trust is not a mining reclamation trust at that time,

(i) to which the first contribution was made before 1996,

(ii) from which any amount was distributed before February 19, 1997, or

(iii) any interest in which was disposed of before February 19, 1997,

(i) that elected in writing filed with the Minister, before 1998 or before April of the year following the year in which the first contribution to the trust was made, never to have been a qualifying environmental trust, or

(j) that was at any previous time during its existence not a qualifying environmental trust;

"total pension
adjustment
reversal"
« *facteur
d'équivalence
rectifié total*
»

"total pension adjustment reversal" of a taxpayer for a calendar year has the meaning assigned by regulation;

(4) Subsection (1) applies after 1997 and, if an election is made by a trust in accordance with paragraph (i) of the definition "qualifying environmental trust" in subsection 248(1) of the Act, as enacted by subsection (3),

(a) the trust is deemed to have never been a mining reclamation trust; and

(b) notwithstanding subsections 152(4) to (5) of the Act, the Minister of National Revenue may before 2000 make any assessments and reassessments that are necessary to give effect to the election.

(5) Subsection (2) applies after 1995.

(6) The definitions "private foundation" and "public foundation" in subsection 248(1) of the Act, as enacted by subsection (3), apply after 1996.

(7) The definition "qualifying environmental trust" in subsection 248(1) of the Act, as enacted by subsection (3), applies after 1991.

(8) The definition "total pension adjustment reversal" in subsection 248(1) of the Act, as enacted by subsection (3), applies after 1996.

67. (1) Subsection 250(7) of the Act is replaced by the following:

Residence of a
qualifying
environmental
trust

(7) For the purposes of this Act, where a trust resident in Canada would be a qualifying environmental trust at any time if it were resident at that time in the province in which the site to which the trust relates is situated, the trust is deemed to be resident at that time in that province and in no other province.

(2) Subsection (1) applies after 1995.

DIVISION B

OTHER AMENDMENTS

68. (1) Section 6 of the Act is amended by adding the following after subsection (16):

Definitions

(17) The definitions in this subsection apply in this subsection and subsection (18).

"disability
policy"
« *police*
d'assurance-inv
alidité »

"disability policy" means a group disability insurance policy that provides for periodic payments to individuals in respect of the loss of remuneration from an office or employment.

"employer"
« employeur »

"employer" of an individual includes a former employer of the individual.

"top-up
disability
payment"
« paiement
compensatoire
pour invalidité
»

"top-up disability payment" in respect of an individual means a payment made by an employer of the individual as a consequence of the insolvency of an insurer that was obligated to make payments to the individual under a disability policy where

(a) the payment is made to an insurer so that periodic payments made to the individual under the policy will not be reduced because of the insolvency, or will be reduced by a lesser amount, or

(b) the following conditions are satisfied:

(i) the payment is made to the individual to replace, in whole or in part, periodic payments that would have been made under the policy to the individual but for the insolvency, and

(ii) the payment is made under an arrangement by which the individual is required to reimburse the payment to the extent that the individual subsequently receives an amount from an insurer in respect of the portion of the periodic payments that the payment was intended to replace.

For the purposes of paragraphs (a) and (b), an insurance policy that replaces a disability policy is deemed to be the same policy as, and a continuation of, the disability policy that was replaced.

Group
disability
benefits --
insolvent
insurer

(18) Where an employer of an individual makes a top-up disability payment in respect of the individual,

(a) the payment is, for the purpose of paragraph (1)(a), deemed not to be a benefit received or enjoyed by the individual;

(b) the payment is, for the purpose of paragraph (1)(f), deemed not to be a contribution made by the employer to or under the disability insurance plan of which the disability policy in respect of which the payment is made is or was a part; and

(c) if the payment is made to the individual, it is, for the purpose of paragraph (1)(f), deemed to be an amount payable to the individual pursuant to the plan.

(2) Subsection (1) applies to payments made after August 10, 1994.

69. (1) Paragraph 8(1)(i) of the Act is amended by striking out the word "and" at the end of subparagraph (v), by adding the word "and" at the end of subparagraph (vi) and by adding the following after subparagraph (vi):

(vii) dues to a professions board, the payment of which was required under the laws of a province,

(2) The portion of paragraph 8(1)(n) of the Act before subparagraph (i) is replaced by the following:

Salary
reimbursement

(n) an amount paid by or on behalf of the taxpayer in the year pursuant to an arrangement (other than an arrangement described in subparagraph (b)(ii) of the definition "top-up disability payment" in subsection 6(17)) under which the taxpayer is required to reimburse any amount paid to the taxpayer for a period throughout which the taxpayer did not perform the duties of the office or employment, to the extent that

(3) Subsection 8(1) of the Act is amended by adding the following after paragraph (n):

Reimbursement
of disability
payments

(n.1) where,

(i) as a consequence of the receipt of a payment (in this paragraph referred to as the "deferred payment") from an insurer, a payment (in this paragraph referred to as the "reimbursement payment") is made by or on behalf of an individual to an employer or former employer of the individual

pursuant to an arrangement described in subparagraph (b)(ii) of the definition "top-up disability payment" in subsection 6(17), and

(ii) the reimbursement payment is made

(A) in the year, other than within the first 60 days of the year if the deferred payment was received in the immediately preceding taxation year, or

(B) within 60 days after the end of the year, if the deferred payment was received in the year,

an amount equal to the lesser of

(iii) the amount included under paragraph 6(1)(f) in respect of the deferred payment in computing the individual's income for any taxation year, and

(iv) the amount of the reimbursement payment;

(4) The portion of subsection 8(5) of the Act before paragraph (a) is replaced by the following:

Dues not
deductible

(5) Notwithstanding subparagraphs (1)(i)(i), (iv), (vi) and (vii), dues are not deductible under those subparagraphs in computing a taxpayer's income from an office or employment to the extent that they are, in effect, levied

(5) Paragraph 8(5)(c) of the Act is replaced by the following:

(c) for any other purpose not directly related to the ordinary operating expenses of the committee or similar body, association, board or trade union, as the case may be.

(6) Subsections (1) , (4) and (5) apply to the 1996 and subsequent taxation years.

(7) Subsection (2) applies to arrangements entered into after August 10, 1994.

(8) Subsection (3) applies to reimbursement payments made after August 10, 1994.

70. (1) Subsections 10(1) and (1.1) of the Act are replaced by the following:

Valuation of
inventory

10. (1) For the purpose of computing a taxpayer's income for a taxation year from a business that is not an adventure or concern in the nature of trade, property described in an inventory shall be valued at the end of the year at the cost at which the taxpayer acquired the property or its fair market value at the end of the year, whichever is lower, or in a prescribed manner.

Adventures in
the nature of
trade

(1.01) For the purpose of computing a taxpayer's income from a business that is an adventure or concern in the nature of trade, property described in an inventory shall be valued at the cost at which the taxpayer acquired the property.

Certain
expenses
included in
cost

(1.1) For the purposes of subsections (1), (1.01) and (10), where land is described in an inventory of a business of a taxpayer, the cost at which the taxpayer acquired the land shall include each amount that is

(a) described in paragraph 18(2)(a) or (b) in respect of the land and for which no deduction is permitted to the taxpayer, or to another person or partnership that is

(i) a person or partnership with whom the taxpayer does not deal at arm's length,

(ii) if the taxpayer is a corporation, a person or partnership that is a specified shareholder of the taxpayer, or

(iii) if the taxpayer is a partnership, a person or partnership whose share of any income or loss of the taxpayer is 10% or more; and

(b) not included in or added to the cost to that other person or partnership of any property otherwise than because of paragraph 53(1)(d.3) or subparagraph 53(1)(e)(xi).

(2) Subsection 10(2.1) of the Act is replaced by the following:

Methods of
valuation to be
the same

(2.1) Where property described in an inventory of a taxpayer's business that is not an adventure or concern in the nature of trade is valued at the end of a taxation year in accordance with a method permitted under this section, that method shall, subject to subsection (6), be used in the valuation of property described in the inventory at the end of the following taxation year for the purpose of computing the taxpayer's income from the business unless the taxpayer, with the concurrence of the Minister and on any terms and conditions that are specified by the Minister, adopts another method permitted under this section.

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

Transition

(9) Where, at the end of a taxpayer's last taxation year at the end of which property described in an inventory of a business that is an adventure or concern in the nature of trade was valued under subsection (1), the property was valued at an amount that is less than the cost at which the taxpayer acquired the property, after that time the cost to the taxpayer at which the property was acquired is, subject to subsection (10), deemed to be that amount.

Acquisition of
control

(10) Notwithstanding subsection (1.01), property described in an inventory of a corporation's business that is an adventure or concern in the nature of trade at the end of the corporation's taxation year that ends immediately before the time at which control of the corporation is acquired by a person or group of persons shall be valued at the cost at which the corporation acquired the property, or its fair market value at the end of the year, whichever is lower, and, after that time, the cost at which the corporation acquired the property is, subject to a subsequent application of this subsection, deemed to be that lower amount.

Acquisition of
control

(11) For the purposes of subsections 88(1.1) and 111(5), a corporation's business that is at any time an adventure or concern in the nature of trade is deemed to be a business carried on at that time by the corporation.

(4) Subsections (1) to (3) apply

(a) to taxation years that end after December 20, 1995;

(b) in respect of a business that is an adventure or concern in the nature of trade, to taxation years of a taxpayer that end before December 21, 1995, except where

(i) the taxpayer's filing-due date for the year is after December 20, 1995, or

(ii) the taxpayer has valued the inventory of the business for the purpose of computing income for the year from the business at an amount that is less than the cost at which the taxpayer acquired the property, which valuation is reflected in a return of income, notice of objection or notice of appeal filed or served under the Act before December 21, 1995; and

(c) in respect of a business that is an adventure or concern in the nature of trade, to fiscal periods of a partnership that end before December 21, 1995, except where

(i) the filing-due dates of all of the members of the partnership for their taxation years that include the end of the fiscal period are after December 20, 1995, or

(ii) the partnership has valued the inventory of the business for the purpose of computing income for the fiscal period from the business at an amount that is less than the cost at which the partnership acquired the property, which valuation is reflected in a return of income, notice of objection or notice of appeal filed or served under the Act before December 21, 1995 by any member of the partnership.

71. (1) Paragraph 12(1)(c) of the Act is replaced by the following:

Interest

(c) subject to subsections (3) and (5), any amount received or receivable by the taxpayer in the year (depending on the method regularly followed by the taxpayer in computing the taxpayer's income) as, on account of, in lieu of payment of or in satisfaction of, interest to the extent that the interest was not included in computing the taxpayer's income for a preceding taxation year;

(2) Subsection 12(1) of the Act is amended by adding the following after paragraph (g):

Proceeds of
disposition of
right to

receive
production

(g.1) any proceeds of disposition to which subsection 18.1(6) applies;

(3) The portion of paragraph 12(1)(x) of the Act before subparagraph (vii) is replaced by the following:

Inducement,
reimbursement,
etc.

(x) any particular amount (other than a prescribed amount) received by the taxpayer in the year, in the course of earning income from a business or property, from

(i) a person (in this paragraph referred to as the "payer") who pays the particular amount in the course of earning income from a business or property or in order to achieve a benefit or advantage for the payer or for persons with whom the payer does not deal at arm's length, or

(ii) a government, municipality or other public authority,

where the particular amount can reasonably be considered to have been received

(iii) as an inducement, whether as a grant, subsidy, forgivable loan, deduction from tax, allowance or any other form of inducement, or

(iv) as a refund, reimbursement, contribution or allowance or as assistance, whether as a grant, subsidy, forgivable loan, deduction from tax, allowance or any other form of assistance, in respect of

(A) an amount included in, or deducted as, the cost of property, or

(B) an outlay or expense,

to the extent that the particular amount

(v) was not otherwise included in computing the taxpayer's income, or deducted in computing, for the purposes of this Act, any balance of undeducted outlays, expenses or other amounts, for the year or a preceding taxation year,

(vi) except as provided by subsection 127(11.1), (11.5) or (11.6), does not reduce, for the purpose of an assessment made

or that may be made under this Act, the cost or capital cost of the property or the amount of the outlay or expense, as the case may be,

(4) Subsections 12(3) and (4) of the Act are replaced by the following:

Interest income

(3) Subject to subsection (4.1), in computing the income for a taxation year of a corporation, partnership, unit trust or any trust of which a corporation or a partnership is a beneficiary, there shall be included any interest on a debt obligation (other than interest in respect of an income bond, an income debenture, a small business bond, a small business development bond, a net income stabilization account or an indexed debt obligation) that accrues to it to the end of the year, or becomes receivable or is received by it before the end of the year, to the extent that the interest was not included in computing its income for a preceding taxation year.

Interest from
investment
contract

(4) Subject to subsection (4.1), where in a taxation year a taxpayer (other than a taxpayer to whom subsection (3) applies) holds an interest in an investment contract on any anniversary day of the contract, there shall be included in computing the taxpayer's income for the year the interest that accrued to the taxpayer to the end of that day with respect to the investment contract, to the extent that the interest was not otherwise included in computing the taxpayer's income for the year or any preceding taxation year.

Impaired debt
obligations

(4.1) Paragraph (1)(c) and subsections (3) and (4) do not apply to a taxpayer in respect of a debt obligation for the part of a taxation year throughout which the obligation is impaired where an amount in respect of the obligation is deductible because of subparagraph 20(1)(1)(ii) in computing the taxpayer's income for the year.

(5) Subsections (1) and (4) apply

(a) to taxation years that end after September 1997; and

(b) to a taxpayer's taxation years that end after 1995 and before October 1997 where the taxpayer files an election in accordance with paragraph 81(11)(b).

(6) Subsection (2) applies to dispositions that occur after November 17, 1996.

(7) Subsection (3) applies to amounts received after 1990 except that, for taxation years that began before 1996, subparagraph 12(1)(x)(vi) of the Act, as enacted by subsection (3), shall be read without reference to "(11.5) or (11.6)".

72. (1) Subsection 12.2(10) of the Act is replaced by the following:

Riders

(10) For the purposes of this Act, a rider added at any time after 1989 to a life insurance policy last acquired before 1990 that provides additional life insurance is deemed to be a separate life insurance policy issued at that time unless

(a) the policy is an exempt policy last acquired after December 1, 1982 or an annuity contract; or

(b) the only additional life insurance provided by the rider is an accidental death benefit.

(2) Subsection (1) applies to riders added after 1989.

73. (1) The portion of subsection 13(4) of the Act after paragraph (b) and before paragraph (c) is replaced by the following:

and the taxpayer so elects under this subsection in the taxpayer's return of income for the taxation year in which the taxpayer acquires a depreciable property of a prescribed class of the taxpayer that is a replacement property for the taxpayer's former property,

(2) Paragraph 13(4.1)(a) of the Act is replaced by the following:

(a) it is reasonable to conclude that the property was acquired by the taxpayer to replace the former property;

(a.1) it was acquired by the taxpayer and used by the taxpayer or a person related to the taxpayer for a use that is the same as or similar to the use to which the taxpayer or a person related to the taxpayer put the former property;

(3) The portion of paragraph 13(7)(f) of the Act before subparagraph (i) is replaced by the following:

(f) where a corporation is deemed under paragraph 111(4)(e) to have disposed of and reacquired depreciable property (other than a timber resource property), the capital cost to the corporation of the property at the time of the reacquisition is deemed to be the amount that is equal to the total of

(4) Subsection 13(21.1) of the Act is replaced by the following;

Disposition of
building

(21.1) Notwithstanding subsection (7) and the definition "proceeds of disposition" in section 54, where at any particular time in a taxation year a taxpayer disposes of a building of a prescribed class and the proceeds of disposition of the building determined without reference to this subsection and subsection (21.2) are less than the lesser of the cost amount and the capital cost to the taxpayer of the building immediately before the disposition, for the purposes of paragraph (a) of the description of F in the definition "undepreciated capital cost" in subsection (21) and subdivision c,

(a) where in the year the taxpayer or a person with whom the taxpayer does not deal at arm's length disposes of land adjacent to, or immediately contiguous to and necessary for the use of, the building, the proceeds of disposition of the building are deemed to be the lesser of

(i) the amount, if any, by which

(A) the total of the fair market value of the building at the particular time and the fair market value of the land immediately before its disposition

exceeds

(B) the lesser of the fair market value of the land immediately before its disposition and the amount, if any, by which the cost amount to the vendor of the land (determined without reference to this subsection) exceeds the total of the capital gains (determined without reference to subparagraphs 40(1)(a)(ii) and (iii)) in respect of dispositions of the land within 3 years before the particular time by the taxpayer or by a person with whom the taxpayer was not dealing at arm's length to the taxpayer or to another person with whom the taxpayer was not dealing at arm's length, and

(ii) the greater of

(A) the fair market value of the building at the particular time, and

(B) the lesser of the cost amount and the capital cost to the taxpayer of the building immediately before its disposition,

and, notwithstanding any other provision of this Act, the proceeds of disposition of the land are deemed to be the amount, if any, by which

(iii) the total of the proceeds of disposition of the building and of the land determined without reference to this subsection and subsection (21.2)

exceeds

(iv) the proceeds of disposition of the building as determined under this paragraph,

and the cost to the purchaser of the land shall be determined without reference to this subsection; and

(b) where paragraph (a) does not apply with respect to the disposition and, at any time before the disposition, the taxpayer or a person with whom the taxpayer did not deal at arm's length owned the land subjacent to, or immediately contiguous to and necessary for the use of, the building, the proceeds of disposition of the building are deemed to be an amount equal to the total of

(i) the proceeds of disposition of the building determined without reference to this subsection and subsection (21.2), and

(ii) 1/4 of the amount by which the greater of

(A) the cost amount to the taxpayer of the building, and

(B) the fair market value of the building

immediately before its disposition exceeds the proceeds of disposition referred to in subparagraph (i).

Loss on certain transfers

(21.2) Where

(a) a corporation, trust or partnership (in this subsection referred to as the "transferor") disposes at a particular time

(otherwise than in a disposition described in any of paragraphs (c) to (g) of the definition "superficial loss" in section 54) of a depreciable property of a particular prescribed class of the transferor,

(b) the lesser of

(i) the capital cost to the transferor of the transferred property, and

(ii) the proportion of the undepreciated capital cost to the transferor of all property of the particular class immediately before that time that

(A) the fair market value of the transferred property at that time

is of

(B) the fair market value of all property of the particular class immediately before that time

exceeds the amount that would otherwise be the transferor's proceeds of disposition of the transferred property at the particular time, and

(c) on the 30th day after the particular time, a person or partnership (in this subsection referred to as the "subsequent owner") who is the transferor or a person affiliated with the transferor owns or has a right to acquire the transferred property (other than a right, as security only, derived from a mortgage, agreement for sale or similar obligation),

the following rules apply:

(d) sections 85 and 97 do not apply to the disposition,

(e) for the purposes of applying this section and section 20 and any regulations made for the purpose of paragraph 20(1)(a) to the transferor for taxation years that end after the particular time,

(i) the transferor is deemed to have disposed of the transferred property for proceeds equal to the lesser of the amounts determined under subparagraphs (b)(i) and (ii) with respect to the transferred property,

(ii) where 2 or more properties of a prescribed class of the transferor are disposed of at the same time, subparagraph (i) applies as if each property so disposed of had been separately disposed of in the order designated by the taxpayer or, if the

taxpayer does not designate an order, in the order designated by the Minister,

(iii) the transferor is deemed to own a property that was acquired before the beginning of the taxation year that includes the particular time at a capital cost equal to the amount of the excess described in paragraph (b), and that is property of the particular class, until the time that is immediately before the first time, after the particular time,

(A) at which a 30-day period begins throughout which neither the transferor nor a person affiliated with the transferor owns or has a right to acquire the transferred property (other than a right, as security only, derived from a mortgage, agreement for sale or similar obligation),

(B) at which the transferred property is not used by the transferor or a person affiliated with the transferor for the purpose of earning income and is used for another purpose,

(C) at which the transferred property would, if it were owned by the transferor, be deemed by section 128.1 or subsection 149(10) to have been disposed of by the transferor,

(D) that is immediately before control of the transferor is acquired by a person or group of persons, where the transferor is a corporation, or

(E) at which the winding-up of the transferor begins (other than a winding-up to which subsection 88(1) applies), where the transferor is a corporation, and

(iv) the property described in subparagraph (iii) is considered to have become available for use by the transferor at the time at which the transferred property is considered to have become available for use by the subsequent owner,

(f) for the purposes of subparagraphs (e)(iii) and (iv), where a partnership otherwise ceases to exist at any time after the particular time, the partnership is deemed not to have ceased to exist, and each person who was a member of the partnership immediately before the partnership would, but for this paragraph, have ceased to exist is deemed to remain a member of the partnership, until the time that is immediately after the first time described in clauses (e)(iii)(A) to (E), and

(g) for the purposes of applying this section and section 20 and any regulations made for the purpose of paragraph 20(1)(a) to the subsequent owner,

(i) the subsequent owner's capital cost of the transferred property is deemed to be the amount that was the transferor's capital cost of the transferred property, and

(ii) the amount by which the transferor's capital cost of the transferred property exceeds its fair market value at the particular time is deemed to have been deducted under paragraph 20(1)(a) by the subsequent owner in respect of property of that class in computing income for taxation years that ended before the particular time.

(5) Subsections 13(24) and (25) of the Act are replaced by the following:

Acquisition of
control

(24) Where control of a corporation has been acquired at any time by a person or group of persons and, within the 12-month period that ended immediately before that time, the corporation or a partnership of which it was a majority interest partner acquired depreciable property (other than property that was owned by the corporation or partnership or by a person that would, if section 251.1 were read without reference to the definition "controlled" in subsection 251.1(2), be affiliated with the corporation throughout the period that began immediately before the 12-month period began and ended at the time the property was acquired by the corporation or partnership) that was not used, or acquired for use, by the corporation or partnership in a business that was carried on by it immediately before the 12-month period began,

(a) for the purposes of the description of A in the definition "undepreciated capital cost" in subsection (21) and of sections 127 and 127.1, the property is, subject to paragraph (b), deemed not to have been acquired by the corporation or partnership before that time and to have been acquired by it immediately after that time; and

(b) where the property was disposed of by it before that time and was not reacquired by it before that time, for the purpose of the description of A in that definition, the property is deemed to have been acquired by the corporation or partnership immediately before the property was disposed of.

Early change of
control

(25) For the purpose of subsection (24), where a corporation referred to in that subsection was incorporated or otherwise formed in the 12-month period referred to in that subsection, the corporation is deemed to have been, throughout the period that

began immediately before the 12-month period and ended immediately after it was incorporated or otherwise formed,

(a) in existence; and

(b) affiliated with every person with whom it was affiliated (otherwise than because of a right referred to in paragraph 251(5)(b)) throughout the period that began when it was incorporated or otherwise formed and ended immediately before its control is acquired.

(6) Paragraph 13(27)(d) of the Act is replaced by the following:

(d) the time the property

(i) is delivered to the taxpayer, or to a person or partnership (in this paragraph referred to as the "other person") that will use the property for the benefit of the taxpayer, or, where the property is not of a type that is deliverable, is made available to the taxpayer or the other person, and

(ii) is capable, either alone or in combination with other property in the possession at that time of the taxpayer or the other person, of being used by or for the benefit of the taxpayer or the other person to produce a commercially saleable product or to perform a commercially saleable service, including an intermediate product or service that is used or consumed, or to be used or consumed, by or for the benefit of the taxpayer or the other person in producing or performing any such product or service,

(7) Subsections (1) and (2) apply to dispositions of former properties that occur after the 1993 taxation year except that, where a taxpayer so elects in respect of a former property that was disposed of before this Act is assented to by notifying the Minister of National Revenue in writing on or before the filing-due date for the taxpayer's first taxation year that ends after the day on which this Act is assented to, paragraph 13(4.1)(a.1) of the Act, as enacted by subsection (2), shall, for the purpose of determining whether a property is a replacement property of the former property, be read as follows:

(a.1) it was acquired by the taxpayer for a use that is the same as or similar to the use to which the taxpayer or a person related to the taxpayer put the former property;

(8) Subsection (3) applies after April 26, 1995.

(9) Subject to section 247, subsection (4) applies to dispositions of property that occur after April 26, 1995 except that, where

(a) a property is disposed of after April 26, 1995 and before June 20, 1996, and

(b) the transferor elects in writing, filed with the Minister of National Revenue before the end of the third month after the month in which this Act is assented to,

the portion of subparagraph 13(21.2)(e)(iii) of the Act before clause (A), as enacted by subsection (4), shall be read as follows:

(iii) the transferor is deemed to own a property that was acquired before the beginning of the taxation year that includes the particular time at a capital cost equal to the amount of the excess described in paragraph (b), and that is of a separate prescribed class that is the same class as the particular class, until the time that is immediately before the first time, after the particular time,

(10) Subsection (5) applies to acquisitions of control that occur after April 26, 1995.

(11) Subsection (6) applies to property acquired after 1989.

74. (1) The portion of subparagraph 14(1)(a)(v) of the Act after the description of D is repealed.

(2) Section 14 of the Act is amended by adding the following after subsection (1):

Deemed taxable
capital gain

(1.1) For the purposes of section 110.6 and of paragraph 3(b) as it applies for the purposes of that section, an amount included under subparagraph (1)(a)(v) in computing a taxpayer's income for a particular taxation year from a business is deemed to be a taxable capital gain of the taxpayer for the year from the disposition in the year of qualified farm property to the extent of the lesser of

(a) the amount included under subparagraph (1)(a)(v) in computing the taxpayer's income for the particular year from the business, and

(b) the amount determined by the formula

$$A - B$$

where

A is 3/4 of the amount determined in respect of the taxpayer for the particular year equal to the amount, if any, by which

(i) the total of all amounts each of which is the taxpayer's proceeds from a disposition in the particular year or a preceding taxation year that began after 1987 of an eligible capital property in respect of the business that, at the time of disposition, was a qualified farm property (as defined in subsection 110.6(1)) of the taxpayer

exceeds

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

(A) an eligible capital expenditure of the taxpayer in respect of the business that was made or incurred in respect of a qualified farm property disposed of by the taxpayer in the particular year or a preceding taxation year that began after 1987, or

(B) an outlay or expense of the taxpayer that was not deductible in computing the taxpayer's income and was made or incurred for the purpose of making a disposition referred to in subparagraph (i), and

B is the total of all amounts each of which is

(i) that portion of an amount deemed by subparagraph (1)(a)(v) (as it applied in respect of the business to fiscal periods that began after 1987 and ended before February 23, 1994) to be a taxable capital gain of the taxpayer that can reasonably be attributed to a disposition of a qualified farm property of the taxpayer, or

(ii) an amount deemed by this section to be a taxable capital gain of the taxpayer for a taxation year preceding the particular year from the disposition of qualified farm property of the taxpayer.

(3) The portion of subsection 14(6) of the Act before paragraph (a) is replaced by the following:

Exchange of
property

(6) Where in a taxation year (in this subsection referred to as the "initial year") a taxpayer disposes of an eligible capital property (in this section referred to as the taxpayer's "former property") and the taxpayer so elects under this subsection in the taxpayer's return of income for the year in which the taxpayer

acquires an eligible capital property that is a replacement property for the taxpayer's former property, such amount, not exceeding the amount that would otherwise be included in the amount determined for E in the definition "cumulative eligible capital" in subsection (5) (if the description of E in that definition were read without reference to "3/4 of") in respect of a business, as has been used by the taxpayer before the end of the first taxation year after the initial year to acquire the replacement property

(4) Paragraph 14(7)(a) of the Act is replaced by the following:

(a) it is reasonable to conclude that the property was acquired by the taxpayer to replace the former property;

(a.1) it was acquired by the taxpayer for a use that is the same as or similar to the use to which the taxpayer put the former property;

(5) Section 14 of the Act is amended by adding the following after subsection (11):

Loss on certain transfers

(12) Where

(a) a corporation, trust or partnership (in this subsection referred to as the "transferor") disposes at any time in a taxation year of a particular eligible capital property in respect of a business of the transferor in respect of which it would, but for this subsection, be permitted a deduction under paragraph 24(1)(a) as a consequence of the disposition, and

(b) during the period that begins 30 days before and ends 30 days after the disposition, the transferor or a person affiliated with the transferor acquires a property (in this subsection referred to as the "substituted property") that is, or is identical to, the particular property and, at the end of that period, a person or partnership that is either the transferor or a person or partnership affiliated with the transferor owns the substituted property,

the transferor is deemed, for the purposes of this section and sections 20 and 24, to continue to own eligible capital property in respect of the business, and not to have ceased to carry on the business, until the time that is immediately before the first time, after the disposition,

(c) at which a 30-day period begins throughout which neither the transferor nor a person affiliated with the transferor owns

(i) the substituted property, or

(ii) a property that is identical to the substituted property and that was acquired after the day that is 31 days before the period begins,

(d) at which the substituted property is not eligible capital property in respect of a business carried on by the transferor or a person affiliated with the transferor,

(e) at which the substituted property would, if it were owned by the transferor, be deemed by section 128.1 or subsection 149(10) to have been disposed of by the transferor,

(f) that is immediately before control of the transferor is acquired by a person or group of persons, where the transferor is a corporation, or

(g) at which the winding-up of the transferor begins (other than a winding-up to which subsection 88(1) applies), where the transferor is a corporation.

Deemed
identical
property

(13) For the purpose of subsection (12),

(a) a right to acquire a property (other than a right, as security only, derived from a mortgage, agreement for sale or similar obligation) is deemed to be a property that is identical to the property; and

(b) where a partnership otherwise ceases to exist at any time after the disposition, the partnership is deemed not to have ceased to exist and each person who, immediately before the partnership would, but for this paragraph, have ceased to exist, was a member of the partnership is deemed to remain a member of the partnership, until the time that is immediately after the first time described in paragraphs (12)(c) to (g).

(6) Subsections (1) and (2) apply to fiscal periods that end after February 22, 1994, otherwise than solely because of an election under subsection 25(1) of the Act.

(7) Subsections (3) and (4) apply to dispositions of former properties that occur after the 1993 taxation year.

(8) Subject to section 247, subsection (5) applies to dispositions of property that occur after April 26, 1995.

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

Shareholder
debt

(2) Where a person (other than a corporation resident in Canada) or a partnership (other than a partnership each member of which is a corporation resident in Canada) is

- (a) a shareholder of a particular corporation,
- (b) connected with a shareholder of a particular corporation, or
- (c) a member of a partnership, or a beneficiary of a trust, that is a shareholder of a particular corporation

and the person or partnership has in a taxation year received a loan from or has become indebted to the particular corporation, any other corporation related to the particular corporation or a partnership of which the particular corporation or a corporation related to the particular corporation is a member, the amount of the loan or indebtedness is included in computing the income for the year of the person or partnership.

(2) Section 15 of the Act is amended by adding the following after subsection (2.1):

When s. 15(2)
not to apply --
non-resident
persons

(2.2) Subsection (2) does not apply to indebtedness between non-resident persons.

When s. 15(2)
not to apply --
ordinary
lending
business

(2.3) Subsection (2) does not apply to a debt that arose in the ordinary course of the creditor's business or a loan made in the ordinary course of the lender's ordinary business of lending money where, at the time the indebtedness arose or the loan was made, bona fide arrangements were made for repayment of the debt or loan within a reasonable time.

When s. 15(2)
not to apply --

certain
employees

(2.4) Subsection (2) does not apply to a loan made or a debt that arose

(a) in respect of an individual who is an employee of the lender or creditor but not a specified employee of the lender or creditor,

(b) in respect of an individual who is an employee of the lender or creditor or who is the spouse of an employee of the lender or creditor to enable or assist the individual to acquire a dwelling or a share of the capital stock of a cooperative housing corporation acquired for the sole purpose of acquiring the right to inhabit a dwelling owned by the corporation, where the dwelling is for the individual's habitation,

(c) where the lender or creditor is a particular corporation, in respect of an employee of the particular corporation or of another corporation that is related to the particular corporation, to enable or assist the employee to acquire from the particular corporation, or from another corporation related to the particular corporation, previously unissued fully paid shares of the capital stock of the particular corporation or the related corporation, as the case may be, to be held by the employee for the employee's own benefit, or

(d) in respect of an employee of the lender or creditor to enable or assist the employee to acquire a motor vehicle to be used by the employee in the performance of the duties of the employee's office or employment,

where

(e) it is reasonable to conclude that the employee or the employee's spouse received the loan, or became indebted, because of the employee's employment and not because of any person's share-holdings, and

(f) at the time the loan was made or the debt was incurred, *bona fide* arrangements were made for repayment of the loan or debt within a reasonable time.

When s. 15(2)
not to apply --
certain trusts

(2.5) Subsection (2) does not apply to a loan made or a debt that arose in respect of a trust where

(a) the lender or creditor is a private corporation;

(b) the corporation is the settlor and sole beneficiary of the trust;

(c) the sole purpose of the trust is to facilitate the purchase and sale of the shares of the corporation, or of another corporation related to the corporation, for an amount equal to their fair market value at the time of the purchase or sale, as the case may be, from or to the employees of the corporation or of the related corporation (other than employees who are specified employees of the corporation or of another corporation related to the corporation), as the case may be; and

(d) at the time the loan was made or the debt incurred, *bona fide* arrangements were made for repayment of the loan or debt within a reasonable time.

When s. 15(2)
not to apply --
repayment
within one year

(2.6) Subsection (2) does not apply to a loan or an indebtedness repaid within one year after the end of the taxation year of the lender or creditor in which the loan was made or the indebtedness arose, where it is established, by subsequent events or otherwise, that the repayment was not part of a series of loans or other transactions and repayments.

Employee of
partnership

(2.7) For the purpose of this section, an individual who is an employee of a partnership is deemed to be a specified employee of the partnership where the individual is a specified shareholder of one or more corporations that, in total, are entitled, directly or indirectly, to a share of any income or loss of the partnership, which share is not less than 10% of the income or loss.

(3) Subsection 15(8) of the Act is repealed.

(4) Subsection 15(9) of the English version of the Act is replaced by the following:

Deemed benefit
to shareholder
by corporation

(9) Where an amount in respect of a loan or debt is deemed by section 80.4 to be a benefit received by a person or partnership in

a taxation year, the amount is deemed for the purpose of subsection (1) to be a benefit conferred in the year on a shareholder, unless subsection 6(9) or paragraph 12(1)(w) applies to the amount.

(5) Subsections (1) to (3) apply to loans made and indebtedness arising in the 1990 and subsequent taxation years, except that

(a) in its application to loans made and indebtedness arising before April 26, 1995, subsection 15(2.4) of the Act, as enacted by subsection (2), shall be read without reference to paragraph (e); and

(b) in its application to loans made and indebtedness arising before June 20, 1996, subsection 15(2.5) of the Act, as enacted by subsection (2), shall be read without reference to "(other than employees who are specified employees of the corporation or of another corporation related to the corporation)".

(6) Subsection (4) applies to taxation years that end after November 1991.

76. (1) The definition "majority interest partner" in subsection 15.1(3) of the Act is repealed.

(2) Subsection (1) applies after April 26, 1995.

77. (1) The definition "majority interest partner" in subsection 15.2(3) of the Act is repealed.

(2) Subsection (1) applies after April 26, 1995.

78. (1) The portion of subsection 16(6) of the Act before paragraph (a) is replaced by the following:

Indexed debt
obligations

(6) Subject to subsection (7) and for the purposes of this Act, where at any time in a taxpayer's taxation year

(2) Section 16 of the Act is amended by adding the following after subsection (6):

Impaired
indexed debt
obligations

(7) Paragraph (6)(a) does not apply to a taxpayer in respect of an indexed debt obligation for the part of a taxation year throughout which the obligation is impaired where an amount in

respect of the obligation is deductible because of subparagraph 20(1)(1)(ii) in computing the taxpayer's income for the year.

(3) Subsections (1) and (2) apply

(a) to taxation years that end after September 1997; and

(b) to a taxpayer's taxation years that end after 1995 and before October 1997 where the taxpayer files an election in accordance with paragraph 81(11)(b).

79. (1) The portion of subsection 18(9.1) of the Act before paragraph (a) is replaced by the following:

Penalties,
bonuses and
rate-reduction
payments

(9.1) Subject to subsection 142.4(10), where at any time a payment, other than a payment that

(2) Subsection 18(13) of the Act is replaced by the following:

When s. (15)
applies to
money lenders

(13) Subsection (15) applies, subject to subsection 142.6(7), when

(a) a taxpayer (in this subsection and subsection (15) referred to as the "transferor") disposes of a particular property;

(b) the disposition is not described in any of paragraphs (c) to (g) of the definition "superficial loss" in section 54;

(c) the transferor is not an insurer;

(d) the ordinary business of the transferor includes the lending of money and the particular property was used or held in the ordinary course of that business;

(e) the particular property is a share, or a loan, bond, debenture, mortgage, note, agreement for sale or any other indebtedness;

(f) the particular property was, immediately before the disposition, not a capital property of the transferor;

(g) during the period that begins 30 days before and ends 30 days after the disposition, the transferor or a person affiliated with the transferor acquires a property (in this subsection and subsection (15) referred to as the "substituted property") that is, or is identical to, the particular property; and

(h) at the end of the period, the transferor or a person affiliated with the transferor owns the substituted property.

When s. (15)
applies to
adventurers in
trade

(14) Subsection (15) applies where

(a) a person (in this subsection and subsection (15) referred to as the "transferor") disposes of a particular property;

(b) the particular property is described in an inventory of a business that is an adventure or concern in the nature of trade;

(c) the disposition is not a disposition that is deemed to have occurred by section 70, subsection 104(4), section 128.1, paragraph 132.2(1)(f) or subsection 138(11.3) or 149(10);

(d) during the period that begins 30 days before and ends 30 days after the disposition, the transferor or a person affiliated with the transferor acquires property (in this subsection and subsection (15) referred to as the "substituted property") that is, or is identical to, the particular property; and

(e) at the end of the period, the transferor or a person affiliated with the transferor owns the substituted property.

Loss on certain
properties

(15) If this subsection applies because of subsection (13) or (14) to a disposition of a particular property,

(a) the transferor's loss, if any, from the disposition is deemed to be nil, and

(b) the amount of the transferor's loss, if any, from the disposition (determined without reference to this subsection) is deemed to be a loss of the transferor from a disposition of the particular property at the first time, after the disposition,

(i) at which a 30-day period begins throughout which neither the transferor nor a person affiliated with the transferor owns

(A) the substituted property, or

(B) a property that is identical to the substituted property and that was acquired after the day that is 31 days before the period begins,

(ii) at which the substituted property would, if it were owned by the transferor, be deemed by section 128.1 or subsection 149(10) to have been disposed of by the transferor,

(iii) that is immediately before control of the transferor is acquired by a person or group of persons, where the transferor is a corporation, or

(iv) at which the winding-up of the transferor begins (other than a winding-up to which subsection 88(1) applies), where the transferor is a corporation,

and for the purpose of paragraph (b), where a partnership otherwise ceases to exist at any time after the disposition, the partnership is deemed not to have ceased to exist, and each person who was a member of the partnership immediately before the partnership would, but for this subsection, have ceased to exist is deemed to remain a member of the partnership, until the time that is immediately after the first time described in subparagraphs (b)(i) to (iv).

Deemed
identical
property

(16) For the purposes of subsections (13), (14) and (15), a right to acquire a property (other than a right, as security only, derived from a mortgage, agreement for sale or similar obligation) is deemed to be a property that is identical to the property.

(3) Subsection (1) applies to taxation years that end after February 22, 1994.

(4) Subject to section 247, subsection 18(13) of the Act, as enacted by subsection (2), applies to dispositions of property that occur after April 26, 1995, other than a disposition that occurred before July 1995 to which subsection 142.6(7) of the Act

(a) does not apply; and

(b) would apply if the disposition had occurred after June 1995.

(5) Subsection 18(14) of the Act, as enacted by subsection (2), applies to dispositions of property that occur after June 20, 1996, other than a disposition that occurred before 1997 to a person or partnership that was obliged on June 20, 1996 to acquire the

property pursuant to the terms of an agreement in writing made on or before that day and, for the purpose of this subsection, a person or partnership shall be considered not to be obliged to acquire property where the person or partnership can be excused from performing the obligation if there is a change to the Act or if there is an adverse assessment under the Act.

(6) Subsections 18(15) and (16) of the Act, as enacted by subsection (2), apply to dispositions of property that occur after April 26, 1995.

80. (1) The Act is amended by adding the following after section 18:

Definitions

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

"matchable
expenditure"
« *dépense à
rattacher* »

"matchable expenditure" of a taxpayer means the amount of an expenditure that is made by the taxpayer to

(a) acquire a right to receive production,

(b) fulfil a covenant or obligation arising in circumstances in which it is reasonable to conclude that a relationship exists between the covenant or obligation and a right to receive production, or

(c) preserve or protect a right to receive production,

but does not include an amount for which a deduction is provided under section 20 in computing the taxpayer's income.

"right to
receive
production"
« *droit aux
produit* »

"right to receive production" means a right under which a taxpayer is entitled, either immediately or in the future and either absolutely or contingently, to receive an amount all or a portion of which is computed by reference to use of property, production, revenue, profit, cash flow, commodity price, cost or value of property or any other similar criterion or by reference to

dividends paid or payable to shareholders of any class of shares where the amount is in respect of another taxpayer's activity, property or business but such a right does not include an income interest in a trust, a Canadian resource property or a foreign resource property.

"tax benefit"
« *avantage
fiscal* »

"tax benefit" means a reduction, avoidance or deferral of tax or other amount payable under this Act or an increase in a refund of tax or other amount under this Act.

"tax shelter"
« *abri fiscal* »

"tax shelter" means a property that would be a tax shelter (as defined in subsection 237.1(1)) if

(a) the cost of a right to receive production were the total of all amounts each of which is a matchable expenditure to which the right relates; and

(b) subsections (2) to (13) did not apply for the purpose of computing an amount, or in the case of a partnership a loss, represented to be deductible.

"taxpayer"
« *contribuable*
»

"taxpayer" includes a partnership.

Limitation on
the
deductibility
of matchable
expenditure

(2) In computing a taxpayer's income from a business or property for a taxation year, no amount of a matchable expenditure may be deducted except as provided by subsection (3).

Deduction of
matchable
expenditure

(3) If a taxpayer's matchable expenditure would, but for subsection (2) and this subsection, be deductible in computing the taxpayer's income, there may be deducted in respect of the

matchable expenditure in computing the taxpayer's income for a taxation year the amount that is determined under subsection (4) for the year in respect of the expenditure.

Amount of deduction

(4) For the purpose of subsection (3), the amount determined under this subsection for a taxation year in respect of a taxpayer's matchable expenditure is the amount, if any, that is the least of

(a) the total of

(i) the lesser of

(A) 1/5 of the matchable expenditure, and

(B) the amount determined by the formula

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

where

A is the number of months that are in the year and after the day on which the right to receive production to which the matchable expenditure relates is acquired,

B is the lesser of 240 and the number of months that are in the period that begins on the day on which the right to receive production to which the matchable expenditure relates is acquired and that ends on the day the right is to terminate, and

C is the amount of the matchable expenditure, and

(ii) the amount, if any, by which the amount determined under this paragraph for the preceding taxation year in respect of the matchable expenditure exceeds the amount of the matchable expenditure deductible in computing the taxpayer's income for that preceding year,

(b) the total of

(i) all amounts each of which is included in computing the taxpayer's income for the year (other than any portion of such amount that is the subject of a reserve claimed by the taxpayer for the year under this Act) in respect of the right to receive production to which the matchable expenditure relates, and

(ii) the amount by which the amount determined under this paragraph for the preceding taxation year in respect of the matchable expenditure exceeds the amount of the matchable expenditure deductible in computing the taxpayer's income for that preceding year, and

(c) the amount, if any, by which

(i) the total of all amounts each of which is an amount of the matchable expenditure that would, but for this section, have been deductible in computing the taxpayer's income for the year or a preceding taxation year

exceeds

(ii) the total of all amounts each of which is an amount of the matchable expenditure deductible under subsection (3) in computing the taxpayer's income for a preceding taxation year.

Special rules

(5) For the purpose of this section,

(a) where a taxpayer's matchable expenditure is made before the day on which the related right to receive production is acquired by the taxpayer, the expenditure is deemed to have been made on that day;

(b) where a taxpayer has one or more rights to renew a particular right to receive production to which a matchable expenditure relates for one or more additional terms, after the term that includes the time at which the particular right was acquired, the particular right is deemed to terminate on the latest day on which the latest possible such term could terminate if all rights to renew the particular right were exercised;

(c) where a taxpayer has 2 or more rights to receive production that can reasonably be considered to be related to each other, the rights are deemed to be one right; and

(d) where the term of a taxpayer's right to receive production is for an indeterminate period, the right is deemed to terminate 240 months after it is acquired.

Proceeds of
disposition
considered
income

(6) Where in a taxation year a taxpayer disposes of all or part of a right to receive production to which a matchable expenditure

relates, the proceeds of the disposition shall be included in computing the taxpayer's income for the year.

Arm's length
disposition

(7) Subject to subsections (8) to (10), where in a taxation year a taxpayer disposes (otherwise than in a disposition to which subsection 87(1) or 88(1) applies) of all of the taxpayer's right to receive production to which a matchable expenditure (other than an expenditure no portion of which would, if this section were read without reference to this subsection, be deductible under subsection (3) in computing the taxpayer's income) relates, or the taxpayer's right expires, the amount deductible in respect of the expenditure under subsection (3) in computing the taxpayer's income for the year is deemed to be the amount, if any, determined under paragraph (4)(c) for the year in respect of the expenditure.

Non-arm's
length
disposition

(8) Subsection (10) applies where

(a) a taxpayer's particular right to receive production to which a matchable expenditure (other than an expenditure no portion of which would, if this section were read without reference to subsections (7) and (10), be deductible under subsection (3) in computing the taxpayer's income) relates has expired or the taxpayer has disposed of all of the right (otherwise than in a disposition to which subsection 87(1) or 88(1) applies);

(b) during the period that begins 30 days before and ends 30 days after the disposition or expiry, the taxpayer or a person affiliated, or who does not deal at arm's length, with the taxpayer acquires a right to receive production (in this subsection and subsection (10) referred to as the "substituted property") that is, or is identical to, the particular right; and

(c) at the end of the period, the taxpayer or a person affiliated, or who does not deal at arm's length, with the taxpayer owns the substituted property.

Special case

(9) Subsection (10) applies where

(a) a taxpayer's particular right to receive production to which a matchable expenditure (other than an expenditure no portion of which would, if this section were read without reference to subsections (7) and (10), be deductible under subsection (3) in

computing the taxpayer's income) relates has expired or the taxpayer has disposed of all of the right (otherwise than in a disposition to which subsection 87(1) or 88(1) applies); and

(b) during the period that begins at the time of the disposition or expiry and ends 30 days after that time, a taxpayer that had an interest, directly or indirectly, in the right has another interest, directly or indirectly, in another right to receive production, which other interest is a tax shelter or a tax shelter investment (as defined by section 143.2).

Amount of
deduction if
non-arm's
length
disposition

(10) Where this subsection applies because of subsection (8) or (9) to a disposition or expiry in a taxation year or a preceding taxation year of a taxpayer's right to receive production to which a matchable expenditure relates,

(a) the amount deductible under subsection (3) in respect of the expenditure in computing the taxpayer's income for a taxation year that ends at or after the disposition or expiry of the right is the least of the amounts determined under subsection (4) for the year in respect of the expenditure; and

(b) the least of the amounts determined under subsection (4) in respect of the expenditure for a taxation year is deemed to be the amount, if any, determined under paragraph (4)(c) in respect of the expenditure for the year where the year includes the time that is immediately before the first time, after the disposition or expiry,

(i) at which the right would, if it were owned by the taxpayer, be deemed by section 128.1 or subsection 149(10) to have been disposed of by the taxpayer,

(ii) that is immediately before control of the taxpayer is acquired by a person or group of persons, if the taxpayer is a corporation,

(iii) at which winding-up of the taxpayer begins (other than a winding-up to which subsection 88(1) applies), if the taxpayer is a corporation,

(iv) if subsection (8) applies, at which a 30-day period begins throughout which neither the taxpayer nor a person affiliated, or who does not deal at arm's length, with the taxpayer owns

(A) the substituted property, or

(B) a property that is identical to the substituted property and that was acquired after the day that is 31 days before the period began, or

(v) if subsection (9) applies, at which a 30-day period begins throughout which no taxpayer who had an interest, directly or indirectly, in the right has an interest, directly or indirectly, in another right to receive production if one or more of those direct or indirect interests in the other right is a tax shelter or tax shelter investment (as defined by section 143.2).

Partnerships

(11) For the purpose of paragraph (10)(b), where a partnership otherwise ceases to exist at any time after a disposition or expiry referred to in subsection (10), the partnership is deemed not to have ceased to exist, and each taxpayer who was a member of the partnership immediately before the partnership would, but for this subsection, have ceased to exist is deemed to remain a member of the partnership until the time that is immediately after the first of the times described in subparagraphs (10)(b)(i) to (v).

Identical property

(12) For the purposes of subsections (8) and (10), a right to acquire a particular right to receive production (other than a right, as security only, derived from a mortgage, agreement of sale or similar obligation) is deemed to be a right to receive production that is identical to the particular right.

Application of section 143.2

(13) For the purpose of applying section 143.2 to an amount that would, if this section were read without reference to this subsection, be a matchable expenditure any portion of the cost of which is deductible under subsection (3), the expenditure is deemed to be a tax shelter investment and that section shall be read without reference to subparagraph 143.2(6)(b)(ii).

Debt obligations

(14) Where the rate of return on a taxpayer's right to receive production to which a matchable expenditure (other than an expenditure no portion of which would, if this section were read without reference to this subsection, be deductible under

subsection (3) in computing the taxpayer's income) relates is reasonably certain at the time the taxpayer acquires the right,

(a) the right is, for the purposes of subsection 12(9) and Part LXX of the *Income Tax Regulations*, deemed to be a debt obligation in respect of which no interest is stipulated to be payable in respect of its principal amount and the obligation is deemed to be satisfied at the time the right terminates for an amount equal to the total of the return on the obligation and the amount that would otherwise be the matchable expenditure that is related to the right; and

(b) notwithstanding subsection (3), no amount may be deducted in computing the taxpayer's income in respect of any matchable expenditure that relates to the right.

Non-
applicability
of section 18.1

(15) Subject to subsections (1) and (14), this section does not apply to a taxpayer's matchable expenditure in respect of a right to receive production if no portion of the expenditure can reasonably be considered to have been paid to another taxpayer, or to a person with whom the other taxpayer does not deal at arm's length, to acquire the right from the other taxpayer and

(a) the taxpayer's expenditure cannot reasonably be considered to relate to a tax shelter or tax shelter investment (as defined by section 143.2) and none of the main purposes for making the expenditure is that the taxpayer, or a person with whom the taxpayer does not deal at arm's length, obtain a tax benefit; or

(b) before the end of the taxation year in which the expenditure is made, the total of all amounts each of which is included in computing the taxpayer's income for the year (other than any portion of such an amount that is the subject of a reserve claimed by the taxpayer for the year under this Act) in respect of the right to receive production to which the matchable expenditure relates exceeds 80% of the expenditure.

(2) Subsection (1) applies to every expenditure made by a taxpayer or a partnership after November 17, 1996 other than, in respect of a particular right to receive production, such an expenditure made

(a) before 1997 under an agreement in writing made by the taxpayer or the partnership before 1997 to acquire the particular right

(i) in return for paying selling commissions incurred before 1997 in connection with the distribution of shares of a mutual fund corporation or units of mutual fund trust, or

(ii) to render production services before 1997 for a film or video production,

and, for the purpose of applying this paragraph, the expenditure is deemed to have been made no earlier than the time and only to the extent it is considered for the purposes of the Act to have been made and, if subparagraph (ii) applies, only to the extent the services were rendered at or before that time,

(b) before August 1997 if

(i) the expenditure was made under an agreement in writing made by the taxpayer or the partnership before August 1997 to acquire the particular right in return for paying selling commissions incurred after 1996 and before August 1997 in connection with the distribution of shares of a mutual fund corporation or units of a mutual fund trust that is managed by an administrator of mutual funds,

(ii) the particular right to receive production is identified in an advance income tax ruling request delivered to Revenue Canada before November 18, 1996,

(iii) the total of all such expenditures made by any taxpayer or partnership in respect of all of the rights identified in the advance income tax ruling request does not exceed \$30,000,000, and

(iv) all tax shelter investments (as defined in section 143.2 of the Act) that can reasonably be considered to relate to the expenditure were acquired before August 1997,

and, for the purpose of applying this paragraph, an expenditure is deemed to have been made no earlier than the time and only to the extent it is considered for the purposes of the Act to have been made,

(c) before August 1997 if

(i) the expenditure is made under an agreement in writing made by the taxpayer or the partnership before August 1997 to acquire the particular right in return for paying selling commissions incurred after 1996 and before August 1997 in connection with the distribution of shares of a mutual fund corporation or units of a mutual fund trust that is managed by an administrator of mutual funds, other than by an administrator of a mutual fund that is or is related to an

administrator to which paragraph (b) refers in respect of commissions incurred in connection with the distribution of the shares or units described in paragraph (b),

(ii) the total of all such expenditures made by any taxpayer or partnership to acquire particular rights in return for paying selling commissions in connection with the distribution of shares of the mutual fund corporation or units of the mutual fund trust that is managed by the administrator of mutual funds or any other person that is related to the administrator does not exceed \$10,000,000, and

(iii) all tax shelter investments (as defined in section 143.2 of the Act) that can reasonably be considered to relate to the expenditure were acquired before August 1997,

and, for the purpose of applying this paragraph, an expenditure is deemed to have been made no earlier than the time and only to the extent it is considered for the purposes of the Act to have been made,

(d) before November 1997 under an agreement in writing made by the taxpayer or the partnership before November 1997 to acquire the particular right and to render production services before November 1997 for a film or video production if

(i) at least 75% of the expenditures made in respect of the film or video production by the taxpayer or partnership pertain to services performed in Canada by residents of Canada, and

(ii) all tax shelter investments (as defined in section 143.2 of the Act) that can reasonably be considered to relate to the expenditure were acquired before November 1997,

and, for the purpose of applying this paragraph, the expenditure is deemed to have been made no earlier than the time and only to the extent it is considered for the purposes of the Act to have been made and only to the extent the services are rendered at or before that time,

(e) before 1998, under an agreement in writing made by the taxpayer or the partnership before November 18, 1996 to acquire the particular right and, for the purpose of this paragraph, if the expenditure relates to service obligations to be fulfilled by the taxpayer or partnership, the expenditure is deemed to have been made no earlier than the time and only to the extent it is considered for the purposes of the Act to have been made and only to the extent the services are rendered at or before that time,

(f) before 1998, pursuant to the terms of a document that is a prospectus, preliminary prospectus or registration statement if

(i) the document was filed before November 18, 1996 with a public authority in Canada in accordance with the securities legislation of Canada or of any province and, where required by law, accepted for filing by the public authority,

(ii) the particular right is identified in the document, and

(iii) all the funds raised pursuant to the document were raised before 1997 and all tax shelter investments (as defined in section 143.2 of the Act), that can reasonably be considered to relate to the expenditure, were acquired before August 1997,

and, for the purpose of applying this paragraph, if an expenditure relates to service obligations to be fulfilled by the taxpayer or partnership, the expenditure is deemed to have been made no earlier than the time and only to the extent it is considered for the purposes of the Act to have been made and only to the extent the services are rendered at or before that time, or

(g) before 1998, pursuant to the terms of an offering memorandum distributed as part of an offering of securities if

(i) the memorandum contained a complete or substantially complete description of the securities contemplated in the offering as well as the terms and conditions of the offering,

(ii) the memorandum was distributed before November 18, 1996,

(iii) solicitations in respect of the sale of the securities contemplated by the memorandum were made before November 18, 1996,

(iv) the sale of the securities was substantially in accordance with the memorandum,

(v) the particular right is identified in the document, and

(vi) all the funds raised pursuant to the memorandum were raised before 1997 and all tax shelter investments (as defined in section 143.2 of the Act) that can reasonably be considered to relate to the expenditure were acquired before August 1997,

and, for the purpose of applying this paragraph, if an expenditure relates to service obligations to be fulfilled by the taxpayer or partnership, the expenditure is deemed to have been made no earlier than the time and only to the extent it is considered for the purposes of the Act to have been made and only to the extent the services are rendered at or before that time,

except that paragraphs (e), (f) and (g) apply to an expenditure only if

(h) there is no agreement or other arrangement under which the obligations of the taxpayer or the partnership with respect to the expenditure can be changed, reduced or waived if there is a change to the Act or if there is an adverse assessment under the Act,

(i) where the expenditure is associated with one or more tax shelters sold or offered for sale at a time and in circumstances in which section 237.1 of the Act requires an identification number to have been obtained, the identification number was obtained before that time, and

(j) in the case of an expenditure, including an expenditure to which paragraph (e) applies, made pursuant to a document described in paragraph (f) or (g), a portion of the securities authorized to be sold in 1996 pursuant to the document were after 1995 and before November 18, 1996 sold to, or subscribed for by, a person who was not at the time of sale or subscription

(i) a promoter, or an agent of a promoter, of the securities,

(ii) a grantor of the right to receive production to which the expenditure relates,

(iii) a broker or dealer in securities, or

(iv) a person who did not deal at arm's length with a person referred to in subparagraph (i) or (ii).

81. (1) The portion of paragraph 20(1)(e) of the Act after subparagraph (ii.2) and before subparagraph (iii) is replaced by the following:

(including a commission, fee or other amount paid or payable for or on account of services rendered by a person as a salesperson, agent or dealer in securities in the course of the issuance, sale or borrowing, but not including any amount that is paid or payable as or on account of the principal amount of the indebtedness or as or on account of interest) that is the lesser of

(2) The portion of subparagraph 20(1)(1)(ii) of the Act before clause (A) is replaced by the following:

(ii) where the taxpayer is a financial institution (as defined in subsection 142.2(1)) in the year or a taxpayer whose ordinary business includes the lending of money, an amount in respect of properties (other than mark-to-market properties, as

defined in that subsection) that are doubtful loans or lending assets that were made or acquired by the taxpayer in the ordinary course of the taxpayer's business of insurance or the lending of money or that were specified debt obligations (as defined in that subsection) of the taxpayer, equal to the total of

(3) Sub-subclause 20(1)(1)(ii)(B)(II)2 of the Act is replaced by the following:

2. the total of all amounts included under subsection 12(3) or paragraph 142.3(1)(a) in computing the taxpayer's income for the year or a preceding taxation year to the extent that those amounts reduced the part of the reserve referred to in sub-subclause 1

(4) Paragraph 20(1)(1) of the Act, as amended by subsections (2) and (3), is replaced by the following:

Doubtful or
impaired debts

(1) a reserve determined as the total of

(i) a reasonable amount in respect of doubtful debts (other than a debt to which subparagraph (ii) applies) that have been included in computing the taxpayer's income for the year or a preceding taxation year, and

(ii) where the taxpayer is a financial institution (as defined in subsection 142.2(1)) in the year or a taxpayer whose ordinary business includes the lending of money, an amount in respect of properties (other than mark-to-market properties, as defined in that subsection) that are

(A) impaired loans or lending assets that are specified debt obligations (as defined in that subsection) of the taxpayer, or

(B) impaired loans or lending assets that were made or acquired by the taxpayer in the ordinary course of the taxpayer's business of insurance or the lending of money

equal to the total of

(C) the percentage (not exceeding 100%) that the taxpayer claims of the prescribed reserve amount for the taxpayer for the year, and

(D) in respect of loans, lending assets or specified debt obligations that are impaired and for which an amount is not

deductible for the year because of clause (C) (each of which in this clause is referred to as a "loan"), the taxpayer's specified percentage for the year of the lesser of

(I) the total of all amounts each of which is a reasonable amount as a reserve (other than any portion of which is in respect of a sectoral reserve) for a loan in respect of the amortized cost of the loan to the taxpayer at the end of the year, and

(II) the amount determined by the formula

$$0.9M - N$$

where

M is the amount that is the taxpayer's reserve or allowance for impairment (other than any portion of the amount that is in respect of a sectoral reserve) for all loans that is determined for the year in accordance with generally accepted accounting principles, and

N is the total of all amounts each of which is the specified reserve adjustment for a loan (other than an income bond, an income debenture, a small business bond or small business development bond) for the year or a preceding taxation year;

(5) Subparagraph 20(1)(1.1)(ii) of the Act is replaced by the following:

(ii) 90% of the reserve for credit risk losses of the taxpayer expected to arise after the end of the year under or in respect of those instruments or commitments determined for the year in accordance with generally accepted accounting principles,

(6) Subparagraph 20(1)(p)(ii) of the Act is replaced by the following:

(ii) all amounts each of which is that part of the amortized cost to the taxpayer at the end of the year of a loan or lending asset (other than a mark-to-market property, as defined in subsection 142.2(1)) that is established in the year by the taxpayer to have become uncollectible and that,

(A) where the taxpayer is an insurer or a taxpayer whose ordinary business includes the lending of money, was made or acquired in the ordinary course of the taxpayer's business of insurance or the lending of money, or

(B) where the taxpayer is a financial institution (as defined in subsection 142.2(1)) in the year, is a specified debt obligation (as defined in that subsection) of the taxpayer;

(7) Section 20 of the Act is amended by adding the following after subsection (2.2):

Sectoral
reserve

(2.3) For the purpose of clause (1)(1)(ii)(D), a sectoral reserve is a reserve or an allowance for impairment for a loan that is determined on a sector-by-sector basis (including a geographic sector, an industrial sector or a sector of any other nature) and not on a property-by-property basis.

Specified
Percentage

(2.4) For the purpose of clause (1)(1)(ii)(D), a taxpayer's specified percentage for a taxation year is

(a) where the taxpayer has a prescribed reserve amount for the year, the percentage that is the percentage of the prescribed reserve amount of the taxpayer for the year claimed by the taxpayer under clause (1)(1)(ii)(C) for the year, and

(b) in any other case, 100%.

(8) Section 20 of the Act is amended by adding the following after subsection (29):

Specified
reserve
adjustment

(30) For the purpose of the description of N in subclause (1)(1)(ii)(D)(II), the specified reserve adjustment for a loan of a taxpayer for a taxation year is the amount determined by the formula

$$0.1(A \times B \times C/365)$$

where

A is the carrying amount of the impaired loan that is used or would be used in determining the interest income on the loan for the year in accordance with generally accepted accounting principles;

B is the effective interest rate on the loan for the year determined in accordance with generally accepted accounting principles; and

C is the number of days in the year on which the loan is impaired.

(9) Subsection (1) applies to expenses incurred after 1987.

(10) Subsections (2), (3) and (6) apply to taxation years that end after February 22, 1994.

(11) Subsections (4), (5), (7) and (8) apply

(a) to taxation years that end after September 1997; and

(b) to a taxpayer's taxation years that end after 1995 and before October 1997 where the taxpayer elects in writing to have subsection (4) apply to the year and files the election with the Minister of National Revenue before the end of the third month after the month in which this Act is assented to.

82. (1) Subsection 27(1) of the Act is replaced by the following:

Application of
Part I to Crown
corporation

27. (1) This Part applies to a federal Crown corporation as if

(a) any income or loss from a business carried on by the corporation as agent of Her Majesty, or from a property of Her Majesty administered by the corporation, were an income or loss of the corporation from the business or the property, as the case may be; and

(b) any property, obligation or debt of any kind whatever held, administered, entered into or incurred by the corporation as agent of Her Majesty were a property, obligation or debt, as the case may be, of the corporation.

(2) Subsection (1) applies

(a) for the purpose of section 181.71 of the Act, as enacted by subsection 199(1), to taxation years that end after June 1989;

(b) for the purposes of section 187.61 of the Act, as enacted by subsection 201(1), and subsection 191.4(3) of the Act, as enacted by subsection 208(1), after 1987;

(c) for the purpose of section 190.211 of the Act, as enacted by subsection 205(1), after May 23, 1985; and

(d) for all other purposes, after April 26, 1995.

83. (1) Paragraph 28(1)(d) of the Act is replaced by the following:

(d) the total of all amounts each of which is an amount included in computing the taxpayer's income for the year from the business because of subsection 13(1), 14(1), 80(13) or 80.3(3) or (5),

(2) Paragraph 28(1)(e) of the Act is amended by striking out the word "and" at the end of subparagraph (i) and by replacing subparagraph (ii) with the following:

(ii) in the case of amounts paid, or deemed by this Act to have been paid, for inventory, were in payment of or on account of an amount that would be deductible in computing the income from the business for the year or any other taxation year if that income were not computed in accordance with the cash method, and

(iii) in any other case, were in payment of or on account of an amount that would be deductible in computing the income from the business for a preceding taxation year, the year or the following taxation year if that income were not computed in accordance with the cash method,

(3) Subsection 28(1) of the Act is amended by adding the following after paragraph (e):

(e.1) all amounts, other than amounts described in section 30, that

(i) would be deductible in computing the income from the business for the year if that income were not computed in accordance with the cash method,

(ii) are not deductible in computing the income from the business for any other taxation year, and

(iii) were paid in a preceding taxation year in the course of carrying on the business,

(4) Subsection (1) applies to taxation years that end after February 21, 1994.

(5) Subsections (2) and (3) apply to amounts paid after April 26, 1995, other than amounts paid pursuant to an agreement in writing made by the payer on or before April 26, 1995.

84. (1) Section 34.1 of the Act is amended by adding the following after subsection (8):

Death of
partner or
proprietor

(9) Where

(a) an individual carries on a business in a taxation year,

(b) the individual dies in the year and after the end of a fiscal period of the business that ends in the year,

(c) another fiscal period of the business ends because of the individual's death (in this subsection referred to as the "short period"), and

(d) the individual's legal representative

(i) elects that this subsection apply in computing the individual's income for the year, or

(ii) files a separate return of income under subsection 150(4) in respect of the individual's business,

notwithstanding subsection (8), there shall be included in computing the individual's income for the year from the business, the amount determined by the formula

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

where

A is the total of the individual's income from the business for fiscal periods (other than the short period) of the business that end in the year,

B is the lesser of

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

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

C is the number of days in the short period, and

D is the total number of days in fiscal periods of the business (other than the short period) that end in the year.

(2) Subsection (1) applies to the 1996 and subsequent taxation years, except that subparagraph 34.1(9)(d)(ii) of the Act, as enacted by subsection (1), does not apply to the 1996 and 1997 taxation years.

85. (1) Section 34.2 of the Act is amended by adding the following after subsection (7):

Death of
partner or
proprietor

(8) Where

(a) an individual carries on a business in a taxation year,

(b) the individual dies in the year,

(c) an amount is included under subsection (5) in computing the individual's income for the year from the business, and

(d) the individual's legal representative

(i) elects that this subsection apply in computing the individual's income for the year, or

(ii) files a separate return of income under subsection 150(4) in respect of the individual's business,

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

(e) the greatest amount that would have been deductible under subsection (4) in computing the individual's income for the year from the business if the individual had not died, and

(f) any amount that the representative claims.

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

86. (1) The portion of subparagraph 37(1)(a)(iii) of the French version of the Act before clause (A) is replaced by the following:

(iii) soit, si le contribuable est une société, sous forme de paiements à une société résidant au Canada et exonérée d'impôt en application de l'alinéa 149(1)j), devant servir à des activités de recherche scientifique et de développement

expérimental – recherche fondamentale ou appliquée – exercées
au Canada :

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

Time for
election

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

(3) Paragraph 37(13)(b) of the Act is replaced by the following:

(b) the work would be scientific research and experimental development if it were performed by the person or partnership,

(4) Subsection (1) applies to taxation years that end after November 1991.

(5) Subsection (2) applies after February 21, 1994 to expenditures incurred at any time except that, for taxation years that began before 1996, the reference in subsection 37(10) of the Act, as enacted by subsection (2), to "subsection (11)" shall be read as a reference to "subsection (1)".

(6) Subsection (3) applies to taxation years that begin after 1995.

87. (1) Sections 37.1 to 37.3 of the Act are repealed.

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

88. (1) The formula "A - B - C" set out in the definition "exempt capital gains balance" in subsection 39.1(1) of the Act is replaced by the following:

A - B - C - F

(2) The definition "exempt capital gains balance" in subsection 39.1(1) of the Act is amended by striking out the word "and" at the end of the description of B, by adding the word "and" at the end of the description of C and by adding the following after the description of C:

F is

(a) if the entity is a trust described in any of paragraphs (g) to (j) of the definition "flow-through entity" in this

subsection, the total of all amounts each of which is an amount included before the year in the cost to the individual of a property under subsection 107(2.2) or paragraph 144(7.1)(c) because of the individual's exempt capital gains balance in respect of the entity, and

(b) in any other case, nil;

(3) Subsections (1) and (2) apply to the 1994 and subsequent taxation years.

89. (1) Paragraph 40(2)(e) of the Act is repealed.

(2) Subparagraph 40(2)(h)(i) of the Act is replaced by the following:

(i) all amounts added under paragraph 53(1)(f.1) to the cost to a corporation, other than the controlled corporation, of property disposed of to that corporation by the controlled corporation that were added to the cost of the property during the period while the controlled corporation was controlled by the taxpayer and that can reasonably be attributed to losses on the property that accrued during the period while the controlled corporation was controlled by the taxpayer,

(3) Subsection 40(3.1) of the English version of the Act is replaced by the following:

Deemed gain for
certain
partners

(3.1) Where, at the end of a fiscal period of a partnership, a member of the partnership is a limited partner of the partnership, or is a member of the partnership who was a specified member of the partnership at all times since becoming a member, except where the member's partnership interest was held by the member on February 22, 1994 and is an excluded interest at the end of the fiscal period,

(a) the amount determined under subsection (3.11) is deemed to be a gain from the disposition, at the end of the fiscal period, of the member's interest in the partnership; and

(b) for the purpose of section 110.6, the interest is deemed to have been disposed of by the member at that time.

(4) Section 40 of the Act is amended by adding the following after subsection (3.13):

Specified
member of a
partnership

(3.131) Where it can reasonably be considered that one of the main reasons that a member of a partnership was not a specified member of the partnership at all times since becoming a member of the partnership is to avoid the application of subsection (3.1) to the member's interest in the partnership, the member is deemed for the purpose of that subsection to have been a specified member of the partnership at all times since becoming a member of the partnership.

(5) Paragraph 40(3.14)(b) of the Act is replaced by the following:

(b) the member or a person not dealing at arm's length with the member is entitled, either immediately or in the future and either absolutely or contingently, to receive an amount or to obtain a benefit that would be described in paragraph 96(2.2)(d) if that paragraph were read without reference to subparagraphs (ii) and (vi);

(6) Section 40 of the Act is amended by adding the following after subsection (3.2):

When subsection
(3.4) applies

(3.3) Subsection (3.4) applies when

(a) a corporation, trust or partnership (in this subsection and subsection (3.4) referred to as the "transferor") disposes of a particular capital property (other than depreciable property of a prescribed class) otherwise than in a disposition described in any of paragraphs (c) to (g) of the definition "superficial loss" in section 54;

(b) during the period that begins 30 days before and ends 30 days after the disposition, the transferor or a person affiliated with the transferor acquires a property (in this subsection and subsection (3.4) referred to as the "substituted property") that is, or is identical to, the particular property; and

(c) at the end of the period, the transferor or a person affiliated with the transferor owns the substituted property.

Loss on certain
properties

(3.4) If this subsection applies because of subsection (3.3) to a disposition of a particular property,

(a) the transferor's loss, if any, from the disposition is deemed to be nil, and

(b) the amount of the transferor's loss, if any, from the disposition (determined without reference to paragraph (2)(g) and this subsection) is deemed to be a loss of the transferor from a disposition of the particular property at the time that is immediately before the first time, after the disposition,

(i) at which a 30-day period begins throughout which neither the transferor nor a person affiliated with the transferor owns

(A) the substituted property, or

(B) a property that is identical to the substituted property and that was acquired after the day that is 31 days before the period begins,

(ii) at which the property would, if it were owned by the transferor, be deemed by section 128.1 or subsection 149(10) to have been disposed of by the transferor,

(iii) that is immediately before control of the transferor is acquired by a person or group of persons, where the transferor is a corporation,

(iv) at which the transferor or a person affiliated with the transferor is deemed by section 50 to have disposed of the property, where the substituted property is a debt or a share of the capital stock of a corporation, or

(v) at which the winding-up of the transferor begins (other than a winding-up to which subsection 88(1) applies), where the transferor is a corporation,

and, for the purpose of paragraph (b), where a partnership otherwise ceases to exist at any time after the disposition, the partnership is deemed not to have ceased to exist, and each person who was a member of the partnership immediately before the partnership would, but for this subsection, have ceased to exist is deemed to remain a member of the partnership, until the time that is immediately after the first time described in subparagraphs (b)(i) to (v).

Deemed
identical
property

(3.5) For the purposes of subsections (3.3) and (3.4),

(a) a right to acquire a property (other than a right, as security only, derived from a mortgage, agreement for sale or similar obligation) is deemed to be a property that is identical to the property;

(b) a share of the capital stock of a corporation that is acquired in exchange for another share in a transaction to which section 51, 85.1, 86 or 87 applies is deemed to be a property that is identical to the other share;

(c) where subsections (3.3) and (3.4) apply to the disposition by a transferor of a share of the capital stock of a corporation, and after the disposition the corporation is merged with one or more other corporations, otherwise than in a transaction in respect of which paragraph (b) applies to the share, or is wound up in a winding-up to which subsection 88(1) applies, the corporation formed on the merger or the parent (within the meaning assigned by subsection 88(1)), as the case may be, is deemed to own the share while it is affiliated with the transferor; and

(d) where subsections (3.3) and (3.4) apply to the disposition by a transferor of a share of the capital stock of a corporation, and after the disposition the share is redeemed, acquired or cancelled by the corporation, otherwise than in a transaction in respect of which paragraph (b) or (c) applies to the share, the transferor is deemed to own the share while the corporation is affiliated with the transferor.

Loss on shares

(3.6) Where at any time a taxpayer disposes, to a corporation that is affiliated with the taxpayer immediately after the disposition, of a share of a class of the capital stock of the corporation (other than a share that is a distress preferred share as defined in subsection 80(1)),

(a) the taxpayer's loss, if any, from the disposition is deemed to be nil; and

(b) in computing the adjusted cost base to the taxpayer after that time of a share of a class of the capital stock of the corporation owned by the taxpayer immediately after the disposition, there shall be added the proportion of the amount of the taxpayer's loss from the disposition (determined without reference to paragraph (2)(g) and this subsection) that

(i) the fair market value, immediately after the disposition, of the share

is of

(ii) the fair market value, immediately after the disposition, of all shares of the capital stock of the corporation owned by the taxpayer.

(7) Section 40 of the Act is amended by adding the following after subsection (8):

Additions to
taxable
Canadian
property

(9) Where a non-resident person disposes of a taxable Canadian property that the person last acquired before April 27, 1995 and that would not be a taxable Canadian property immediately before the disposition if section 115 were read as it applied to dispositions that occurred on April 26, 1995, the person's gain or loss from the disposition is deemed to be the amount determined by the formula

$$A \times B/C$$

where

A is the amount of the gain or loss determined without reference to this subsection;

B is the number of calendar months in the period that begins with May 1995 and ends with the calendar month that includes the time of the disposition; and

C is the number of calendar months in the period that begins with the calendar month in which the person last acquired the property and ends with the calendar month that includes the time of the disposition.

(8) Subject to section 247, subsections (1), (2), (6) and (7) apply to dispositions of property that occur after April 26, 1995.

(9) Subsection (3) applies after February 21, 1994, except that subsection 40(3.1) of the Act, as enacted by subsection (3), does not apply to a member of a partnership before the end of the partnership's fifth fiscal period that ends after 1994 if the following conditions are met:

(a) the member acquired the partnership interest before 1995;

(b) all or substantially all of the property (other than money) of the partnership is a film production or an interest in one or

more partnerships all or substantially all of the property of which is a film production;

(c) the principal photography of the production (or, in the case of a production that is a television series, an episode of the series) began before 1995;

(d) the funds used to produce the film production were raised before 1995 and the principal photography of the production was completed, and the funds were expended, before 1995 (or, in the case of a film production prescribed for the purpose of subparagraph 96(2.2)(d)(ii) of the Act, the principal photography of the production was completed, and the funds were expended, before March 2, 1995); and

(e) one of the following conditions is met:

(i) the producer of the production

(A) had, before February 22, 1994, entered into a written agreement for the pre-production, distribution, broadcasting, financing or acquisition of the production or the acquisition of the screenplay for the production, or

(B) had entered into a written contract before February 22, 1994 with a screenwriter to write the screenplay for the production,

(ii) the producer of the production received before 1995 a commitment for funding or government assistance (or an advance ruling or active status letter in respect of eligibility for such funding or other government assistance) for the production from a federal or provincial government agency the mandate of which is related to the provision of assistance to film productions in Canada, or

(iii) the production is a continuation of a television series an episode of which satisfies the requirements of this paragraph.

(10) Subsection (4) applies after April 26, 1995.

(11) Subsection (5) applies to fiscal periods that end after November 1994.

90. (1) The portion of subsection 44(1) of the Act after paragraph (d) and before paragraph (e) is replaced by the following:

acquired a capital property that is a replacement property for the taxpayer's former property and the replacement property has not

been disposed of by the taxpayer before the time the taxpayer disposed of the taxpayer's former property, notwithstanding subsection 40(1), if the taxpayer so elects under this subsection in the taxpayer's return of income for the year in which the taxpayer acquired the replacement property,

(2) Paragraph 44(5)(a) of the Act is replaced by the following:

<[ip2n,2n]>(a) it is reasonable to conclude that the property was acquired by the taxpayer to replace the former property;

(a.1) it was acquired by the taxpayer and used by the taxpayer or a person related to the taxpayer for a use that is the same as or similar to the use to which the taxpayer or a person related to the taxpayer put the former property;

(3) Subsections (1) and (2) apply to dispositions of former properties that occur after the 1993 taxation year except that, if a taxpayer so elects in respect of a former property of the taxpayer that was disposed of before this Act is assented to by notifying the Minister of National Revenue in writing on or before the filing-due date for the taxpayer's first taxation year that ends after the day on which this Act is assented to, paragraph 44(5)(a.1) of the Act, as enacted by subsection (2), shall, for the purpose of determining whether a property of the taxpayer is a replacement property of the former property, be read as follows:

(a.1) it was acquired by the taxpayer for a use that is the same as or similar to the use to which the taxpayer or a person related to the taxpayer put the former property;

91. (1) Subparagraph 48.1(1)(a)(ii) of the Act is replaced by the following:

<[ip4n,4n]>(ii) immediately after that time, ceases to be a small business corporation because a class of its shares is listed on a prescribed stock exchange, and

(2) Subsection (1) applies to corporations that cease to be a small business corporation after 1995.

(3) An election under subsection 48.1(1) of the Act, as amended by subsection (1), that is made by an individual for the 1995 taxation year is deemed to have been made on time, if

(a) a class of the shares of the capital stock of the corporation in respect of which the election is made was, on January 1, 1996, listed on a stock exchange listed in section 3201 of the *Income Tax Regulations*;

(b) the corporation was a small business corporation on December 31, 1995; and

(c) the election is made before the end of the third month after the month in which this Act is assented to.

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

Convertible
property

51. (1) Where a share of the capital stock of a corporation is acquired by a taxpayer from the corporation in exchange for

(2) Subsection (1) applies to exchanges that occur after June 20, 1996, other than exchanges that occur before 1997 under agreements in writing made on or before June 20, 1996.

93. (1) Subsection 52(7) of the Act is replaced by the following:

Cost of shares
of subsidiary

(7) Notwithstanding any other provision of this Act, where a corporation disposes of property to another corporation in a transaction to which paragraph 219(1)(1) applies, the cost to it of any share of a particular class of the capital stock of the other corporation received by it as consideration for the property is deemed to be the lesser of the cost of the share to the corporation otherwise determined immediately after the disposition and the amount by which the paid-up capital in respect of that class increases because of the issuance of the share.

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

94. (1) Paragraphs 53(1)(f.1) and (f.11) of the Act are replaced by the following:

(f.1) where the taxpayer is a taxable Canadian corporation and the property was disposed of by another taxable Canadian corporation to the taxpayer in circumstances such that

(i) paragraph (f.2) does not apply to increase the adjusted cost base to the other corporation of shares of the capital stock of the taxpayer, and

(ii) the capital loss from the disposition was deemed by paragraph 40(2)(e.1) (or, where the property was acquired by the taxpayer before 1996, by paragraph 40(2)(e) or 85(4)(a) as

those paragraphs read in their application to property acquired before April 26, 1995) to be nil,

the amount that would otherwise have been the capital loss from the disposition;

(f.11) where the property was disposed of by a person (other than a non-resident person or a person exempt from tax under this Part on the person's taxable income) or by an eligible Canadian partnership (as defined in subsection 80(1)) to the taxpayer in circumstances such that

(i) paragraph (f.1) does not apply to increase the adjusted cost base to the taxpayer of the property,

(ii) paragraph (f.2) does not apply to increase the adjusted cost base to that person of shares of the capital stock of the taxpayer, and

(iii) the capital loss from the disposition was deemed by paragraph 40(2)(e.1) (or, where the property was acquired by the taxpayer before 1996, by paragraph 85(4)(a) as it read in its application to property acquired before April 26, 1995) to be nil,

the amount that would otherwise be the capital loss from the disposition;

(2) Paragraph 53(1)(f.2) of the Act is replaced by the following:

(f.2) where the property is a share, any amount required by paragraph 40(3.6)(b) (or, where the property was acquired by the taxpayer before 1996, by paragraph 85(4)(b) as it read in its application to property disposed of before April 26, 1995) to be added in computing the adjusted cost base to the taxpayer of the share;

(3) Subsection 53(1) of the Act is amended by striking out the word "and" at the end of paragraph (p), by adding the word "and" at the end of paragraph (q) and by adding the following after paragraph (q):

(r) where the time is before 2005, the property is an interest in, or a share of the capital stock of, a flow-through entity described in any of paragraphs (a) to (f) of the definition "flow-through entity" in subsection 39.1(1) and immediately after that time the taxpayer disposed of all of the taxpayer's interests in, and shares of the capital stock of, the entity, the amount determined by the formula

$$A \times B/C$$

where

A is the amount, if any, by which the taxpayer's exempt capital gains balance (as defined in subsection 39.1(1)) in respect of the entity for the taxpayer's taxation year that includes that time exceeds the total of all amounts each of which is

(i) the amount by which a capital gain is reduced under section 39.1 for the year because of the taxpayer's exempt capital gains balance in respect of the entity, or

(ii) $\frac{4}{3}$ of an amount by which a taxable capital gain, or the income from a business, is reduced under section 39.1 for the year because of the taxpayer's exempt capital gains balance in respect of the entity,

B is the fair market value at that time of the property, and

C is the fair market value at that time of all the taxpayer's interests in, and shares of the capital stock of, the entity.

(4) Clause 53(2)(c)(i)(C) of the Act is replaced by the following:

(C) subsections 100(4) and 112(3.1), and subsection 112(4.2) as it read in its application to dispositions of property that occurred before April 27, 1995,

(5) Subparagraph 53(2)(c)(i.3) of the Act is replaced by the following:

(i.3) if at that time the property is not a tax shelter investment as defined by section 143.2 and the taxpayer would be a member, described in subsection 40(3.1), of the partnership if the fiscal period of the partnership that includes that time ended at that time, the unpaid principal amount of any indebtedness of the taxpayer for which recourse is limited, either immediately or in the future and either absolutely or contingently, and that can reasonably be considered to have been used to acquire the property,

(6) The portion of subsection 53(4) of the Act before paragraph (a) is replaced by the following:

Recomputation
of adjusted
cost base on
transfers and

deemed
dispositions

(4) Where at any time in a taxation year a person or partnership (in this subsection referred to as the "vendor") disposes of a specified property and the proceeds of disposition of the property are determined under paragraph 48.1(1)(c), section 70 or 73, subsection 85(1), paragraph 87(4)(a) or (c) or 88(1)(a), subsection 97(2) or 98(2), paragraph 98(3)(f) or (5)(f), subsection 104(4), paragraph 107(2)(a), (2.1)(a), (4)(d) or (5)(a) or 111(4)(e) or section 128.1,

(7) Subsection 53(5) of the Act is replaced by the following:

Recomputation
of adjusted
cost base on
other transfer

(5) Where

(a) at any time in a taxation year a person or partnership (in this subsection referred to as the "vendor") disposes of a specified property to another person or partnership (in this subsection referred to as the "transferee"),

(b) immediately before that time, the vendor and the transferee do not deal with each other at arm's length or would not deal with each other at arm's length if paragraph 80(2)(j) applied for the purpose of this subsection,

(c) paragraph (b) would apply in respect of the disposition if each right referred to in paragraph 251(5)(b) that is a right of the transferee to acquire the specified property from the vendor or a right of the transferee to acquire other property as part of a transaction or event or series of transactions or events that includes the disposition were not taken into account, and

(d) the proceeds of the disposition are not determined under any of the provisions referred to in subsection (4),

the following rules apply:

(e) there shall be deducted after that time in computing the adjusted cost base to the transferee of the property the amount, if any, by which

(i) the total of all amounts deducted under paragraph (2)(g.1) in computing the adjusted cost base to the vendor of the property immediately before that time

exceeds

(ii) the amount that would be the vendor's capital gain for the year from that disposition if this Act were read without reference to subparagraph 40(1)(a)(iii) and subsection 100(2), and

(f) the amount determined under paragraph (e) in respect of that disposition shall be added after that time in computing the adjusted cost base to the transferee of the property.

(8) Subject to section 247, subsections (1) and (2) apply to dispositions of property that occur after April 26, 1995.

(9) Subsection (3) applies to the 1994 and subsequent taxation years.

(10) Subsection (4) applies after April 26, 1995.

(11) Subsection (5) applies to indebtedness of a taxpayer arising after September 26, 1994, other than indebtedness arising under an agreement in writing entered into by the taxpayer before September 27, 1994.

(12) Subsections (6) and (7) apply to taxation years that end after February 21, 1994.

95. (1) The definition "superficial loss" in section 54 of the Act is replaced by the following:

"superficial
loss"
« *perte
apparente* »

"superficial loss" of a taxpayer means the taxpayer's loss from the disposition of a particular property where

(a) during the period that begins 30 days before and ends 30 days after the disposition, the taxpayer or a person affiliated with the taxpayer acquires a property (in this definition referred to as the "substituted property") that is, or is identical to, the particular property, and

(b) at the end of that period, the taxpayer or a person affiliated with the taxpayer owns or had a right to acquire the substituted property,

except where the disposition was

(c) a disposition deemed by paragraph 33.1(11)(a), subsection 45(1), section 48 as it read in its application before 1993, section 50 or 70, subsection 104(4), section 128.1, paragraph 132.2(1)(f), subsection 138(11.3) or 142.5(2), paragraph 142.6(1)(b) or subsection 144(4.1) or (4.2) or 149(10) to have been made,

(d) the expiry of an option,

(e) a disposition to which paragraph 40(2)(e.1) applies,

(f) a disposition by a corporation the control of which was acquired by a person or group of persons within 30 days after the disposition,

(g) a disposition by a person that, within 30 days after the disposition, became or ceased to be exempt from tax under this Part on its taxable income, or

(h) a disposition to which subsection 40(3.4) or 69(5) applies,

and, for the purpose of this definition, a right to acquire a property (other than a right, as security only, derived from a mortgage, agreement for sale or similar obligation) is deemed to be a property that is identical to the property.

(2) Subject to section 247, subsection (1) applies to dispositions of property that occur after April 26, 1995.

96. (1) Paragraphs (a) and (b) of the definition "permitted redemption" in subsection 55(1) of the Act are replaced by the following:

(a) a redemption or purchase for cancellation by the distributing corporation, as part of the reorganization in which the distribution was made, of all the shares of its capital stock that were owned, immediately before the distribution, by a transferee corporation in relation to the distributing corporation,

(b) a redemption or purchase for cancellation by a transferee corporation in relation to the distributing corporation, or by a corporation that, immediately after the redemption or purchase, was a subsidiary wholly-owned corporation of the transferee corporation, as part of the reorganization in which the distribution was made, of all of the shares of the capital stock of the transferee corporation or the subsidiary wholly-owned corporation that were acquired by the distributing corporation in consideration for the transfer of property received by the transferee corporation on the distribution, and

(2) Subsection 55(1) of the Act is amended by adding the following in alphabetical order:

"safe-income
determination
time"
« *moment de
détermination
du revenu
protégé* »

"safe-income determination time" for a transaction or event or a series of transactions or events means the time that is the earlier of

(a) the time that is immediately after the earliest disposition or increase in interest described in any of subparagraphs (3)(a)(i) to (v) that resulted from the transaction, event or series, and

(b) the time that is immediately before the earliest time that a dividend is paid as part of the transaction, event or series;

(3) The portion of subsection 55(2) of the Act before paragraph (a) is replaced by the following:

Deemed proceeds
or capital gain

(2) Where a corporation resident in Canada has received a taxable dividend in respect of which it is entitled to a deduction under subsection 112(1) or (2) or 138(6) as part of a transaction or event or a series of transactions or events, one of the purposes of which (or, in the case of a dividend under subsection 84(3), one of the results of which) was to effect a significant reduction in the portion of the capital gain that, but for the dividend, would have been realized on a disposition at fair market value of any share of capital stock immediately before the dividend and that could reasonably be considered to be attributable to anything other than income earned or realized by any corporation after 1971 and before the safe-income determination time for the transaction, event or series, notwithstanding any other section of this Act, the amount of the dividend (other than the portion of it, if any, subject to tax under Part IV that is not refunded as a consequence of the payment of a dividend to a corporation where the payment is part of the series)

(4) The portion of subsection 55(3) of the Act before paragraph (b) is replaced by the following:

Application

(3) Subsection (2) does not apply to any dividend received by a corporation (in this subsection and subsection (3.01) referred to as the "dividend recipient")

(a) if, as part of a transaction or event or a series of transactions or events as a part of which the dividend was received, there was not at any particular time

(i) a disposition of property, other than

(A) money disposed of on the payment of a dividend or on a reduction of the paid-up capital of a share, and

(B) property disposed of for proceeds that are not less than its fair market value,

to a person or partnership that was an unrelated person immediately before the particular time,

(ii) a significant increase (other than as a consequence of a disposition of shares of the capital stock of a corporation for proceeds of disposition that are not less than their fair market value) in the total direct interest in any corporation of one or more persons or partnerships that were unrelated persons immediately before the particular time,

(iii) a disposition, to a person or partnership who was an unrelated person immediately before the particular time, of

(A) shares of the capital stock of the corporation that paid the dividend (referred to in this paragraph and subsection (3.01) as the "dividend payer"), or

(B) property more than 10% of the fair market value of which was, at any time during the course of the series, derived from shares of the capital stock of the dividend payer,

(iv) after the time the dividend was received, a disposition, to a person or partnership that was an unrelated person immediately before the particular time, of

(A) shares of the capital stock of the dividend recipient, or

(B) property more than 10% of the fair market value of which was, at any time during the course of the series, derived from shares of the capital stock of the dividend recipient, and

(v) a significant increase in the total of all direct interests in the dividend payer of one or more persons or partnerships

who were unrelated persons immediately before the particular time; or

(5) Section 55 of the Act is amended by adding the following after subsection (3):

Interpretation
for par. (3)(a)

(3.01) For the purposes of paragraph (3)(a),

(a) an unrelated person means a person (other than the dividend recipient) to whom the dividend recipient is not related or a partnership any member of which (other than the dividend recipient) is not related to the dividend recipient;

(b) a corporation that is formed by an amalgamation of 2 or more other corporations is deemed to be the same corporation as, and a continuation of, each of the other corporations;

(c) where there has been a winding-up of a corporation to which subsection 88(1) applies, the parent is deemed to be the same corporation as, and a continuation of, the subsidiary;

(d) proceeds of disposition shall be determined without reference to "paragraph 55(2)(a) or" in paragraph (j) of the definition "proceeds of disposition" in section 54; and

(e) notwithstanding any other provision of this Act, where a non-resident person disposes of a property in a taxation year and the gain or loss from the disposition is not included in computing the person's taxable income earned in Canada for the year, the person is deemed to have disposed of the property for proceeds of disposition that are less than its fair market value unless, under the income tax laws of the country in which the person is resident, the gain or loss is computed as if the property were disposed of for proceeds of disposition that are not less than its fair market value and the gain or loss so computed is recognized for the purposes of those laws.

(6) Clauses 55(3.1)(c)(ii)(B) and (C) of the Act are replaced by the following:

(B) more than 10% of the fair market value of which was, at any time after the distribution and before the end of the series, attributable to property (other than money and indebtedness that is not convertible into other property) described in clause (A) or (C), or

(C) to which, at any time during the course of the series, the fair market value of property described in clause (A) was wholly or partly attributable

(7) Clauses 55(3.1)(d)(ii)(B) and (C) of the Act are replaced by the following:

(B) more than 10% of the fair market value of which was, at any time after the distribution and before the end of the series, attributable to property (other than money and indebtedness that is not convertible into other property) described in clause (A) or (C), or

(C) to which, at any time during the course of the series, the fair market value of property described in clause (A) was wholly or partly attributable

(8) Subsection 55(3.2) of the Act is amended by striking out the word "and" at the end of paragraph (f), by adding the word "and" at the end of paragraph (g) and by adding the following after paragraph (g):

(h) each corporation that is a shareholder and specified shareholder of a distributing corporation at any time during the course of a series of transactions or events, a part of which includes a distribution made by the distributing corporation, is deemed to be a transferee corporation in relation to the distributing corporation.

(9) Section 55 of the Act is amended by adding the following after subsection (3.2):

Interpretation
of "specified
shareholder"
changed

(3.3) In determining whether a person is a specified shareholder of a corporation for the purposes of subparagraph (3.1)(b)(i) and paragraph (3.2)(h), the reference in the definition "specified shareholder" in subsection 248(1) to "or of any other corporation that is related to the corporation" shall be read as "or of any other corporation that is related to the corporation and that has a significant direct or indirect interest in any issued shares of the capital stock of the corporation".

(10) Paragraph 55(5)(a) of the Act is replaced by the following:

(a) where a dividend referred to in subsection (2) was received by a corporation as part of a transaction or event or a series of transactions or events, the portion of a capital gain

attributable to any income expected to be earned or realized by a corporation after the safe-income determination time for the transaction, event or series is deemed to be a portion of a capital gain attributable to anything other than income;

(11) Paragraph 55(5)(c) of the Act is replaced by the following:

(c) the income earned or realized by a corporation for a period throughout which it was a private corporation is deemed to be its income for the period otherwise determined on the assumption that no amounts were deductible by the corporation under section 37.1 of this Act, as that section applies for taxation years that ended before 1995, or paragraph 20(1)(gg) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952;

(12) Subsection (1) applies to dividends received after February 21, 1994.

(13) Subsections (2), (3) and (10) apply to dividends received after June 20, 1996.

(14) Subsections (4) and (5) apply to dividends received by a corporation after February 21, 1994, except that,

(a) in respect of such dividends received before June 20, 1996, or received under an arrangement substantially advanced, as evidenced in writing, before June 20, 1996, subparagraphs 55(3)(a)(ii) and (v) of the Act, as enacted by subsection (4), shall, if paragraph (b) does not apply, be read as follows:

(ii) a significant increase (other than as a consequence of a disposition of shares of the capital stock of a corporation for proceeds of disposition that are not less than their fair market value) in the interest in any corporation of one or more persons or partnerships that were unrelated persons immediately before the particular time,

...

(v) a significant increase in the interest in the dividend payer of one or more persons or partnerships that were unrelated persons immediately before the particular time; or

and

(b) in respect of such dividends, where they are received on shares issued before June 20, 1996, and the corporation so elects in writing before the end of the fourth month after the month in which this Act is assented to or in its return of income under Part I of the Act for the year in which it received the dividends, the Act shall be read without reference to subsection

55(3.01), as enacted by subsection (5), and paragraph 55(3)(a) of the Act, as enacted by subsection (4), shall be read as follows:

(a) unless the dividend was received as part of a transaction or event or a series of transactions or events that resulted in

(i) a disposition of any property to a person with whom the dividend recipient was dealing at arm's length, or

(ii) a significant increase in the interest in any corporation of any person with whom the dividend recipient was dealing at arm's length; or

(15) Where a corporation elects under paragraph (14)(b) in respect of dividends,

(a) subsection 55(4) of the Act shall, in respect of those dividends, be read as follows:

(4) Where it can reasonably be considered that the principal purpose of one or more transactions or events was to cause 2 or more persons to be related or to not deal with each other at arm's length, or to cause one corporation to control another corporation, so as to make subsection (2) inapplicable, for the purposes of this section, those persons are deemed not to be related or are deemed to deal with each other at arm's length, or the corporation is deemed not to control the other corporation, as the case may be.

and

(b) paragraph 55(5)(e) of the Act shall, in respect of those dividends, be read as follows:

(e) in determining whether 2 or more persons deal with each other at arm's length,

(i) a person is deemed to deal with another person at arm's length and not to be related to the other person if the person is the brother or sister of the other person, and

(ii) persons who are otherwise related to each other solely because of a right referred to in paragraph 251(5)(b) are deemed not to be related to each other; and

(16) Subsections (6) and (7) apply to dividends received after April 26, 1995 except that, with respect to acquisitions of property that occur before June 20, 1996 or under a written agreement made before June 20, 1996,

(a) clause 55(3.1)(c)(ii)(B) of the Act, as enacted by subsection (6), shall be read as follows:

(B) more than 10% of the fair market value of which was, at any time after the distribution and before the end of the series, attributable to property (other than money and indebtedness that is not convertible into other property) described in clause (A), or

and

(b) clause 55(3.1)(d)(ii)(B) of the Act, as enacted by subsection (7), shall be read as follows:

(B) more than 10% of the fair market value of which was, at any time after the distribution and before the end of the series, attributable to property (other than money and indebtedness that is not convertible into other property) described in clause (A), or

(17) Subsection (8) applies to dividends received after June 20, 1996 other than dividends received in the course of a reorganization that is carried out under a series of transactions or events substantially advanced, as evidenced in writing, before June 21, 1996 or that was required on June 20, 1996 to be carried out under a written agreement made before June 21, 1996, and for the purpose of this subsection, a reorganization is deemed not to be required to be carried out if the parties to that agreement can be relieved of that requirement if there is a change to the Act.

(18) Subsection (9) applies to dividends received after 1996.

(19) Subsection (11) applies to the 1995 and subsequent taxation years.

(20) Subsection (15) applies to dividends received after February 21, 1994.

97. (1) Subparagraph 56(1)(a)(iv) of the Act is replaced by the following:

(iv) a benefit under the *Unemployment Insurance Act*, other than a payment relating to a course or program designed to facilitate the re-entry into the labour force of a claimant under that Act, or a benefit under Part I, VIII or VIII.1 of the *Employment Insurance Act*,

(2) The description of B in paragraph 56(1)(b) of the Act is replaced by the following:

B is the total of all amounts each of which is a child support amount that became receivable by the taxpayer from the particular person under an agreement or order on or after its commencement day and before the end of the year

in respect of a period that began on or after its commencement day, and

(3) Subparagraph 56(1)(1)(ii) of the Act is replaced by the following:

(ii) reimbursement of costs incurred in relation to a decision of the Canada Employment and Immigration Commission, the Canada Employment and Insurance Commission, a board of referees or an umpire under the *Unemployment Insurance Act* or the *Employment Insurance Act*, or

(4) Subsection 56(1) of the Act is amended by adding the following after paragraph (q):

Financial
assistance

(r) amounts received in the year by the taxpayer as

(i) earnings supplements provided under a project sponsored by a government or government agency in Canada to encourage individuals to obtain or keep employment,

(ii) financial assistance under a program established by the Canada Employment Insurance Commission under Part II of the *Employment Insurance Act*, or

(iii) financial assistance under a program that is

(A) established by a government or government agency in Canada or by an organization,

(B) similar to a program established under Part II of that Act, and

(C) the subject of an agreement between the government, government agency or organization and the Canada Employment Insurance Commission because of section 63 of that Act;

(5) The portion of paragraph 56(1)(u) of the Act after subparagraph (ii) is replaced by the following:

except to the extent that the payment is otherwise required to be included in computing the income for a taxation year of the taxpayer or the taxpayer's spouse;

(6) Subsections (1) and (3) are deemed to have come into force on June 30, 1996.

(7) Subsection (2) applies to amounts received after 1996.

(8) Subsections (4) and (5) apply to the 1993 and subsequent taxation years except that, in the application before July 1996, paragraph 56(1)(r) of the Act, as enacted by subsection (4), shall be read without reference to subparagraphs (ii) and (iii).

98. (1) The portion of subsection 56.1(1) of the French version of the Act before paragraph (a) is replaced by the following:

Pension
alimentaire

56.1 (1) Pour l'application de l'alinéa 56(1)b) et du paragraphe 118(5), dans le cas où une ordonnance ou un accord, ou une modification s'y rapportant, prévoit le paiement d'un montant à un contribuable ou à son profit, au profit d'enfants confiés à sa garde ou à la fois au profit du contribuable et de ces enfants, le montant ou une partie de celui-ci est réputé :

(2) Subsection (1) applies to amounts received after 1996.

99. (1) The description of B in paragraph 60(b) of the Act is replaced by the following:

B is the total of all amounts each of which is a child support amount that became payable by the taxpayer to the particular person under an agreement or order on or after its commencement day and before the end of the year in respect of a period that began on or after its commencement day, and

(2) Clauses 60(1)(ii)(A) and (B) of the Act are replaced by the following:

(A) under which the taxpayer is the annuitant

(I) for the taxpayer's life, or for the lives jointly of the taxpayer and the taxpayer's spouse either without a guaranteed period, or with a guaranteed period that is not greater than 90 years minus the lesser of the age in whole years of the taxpayer and the age in whole years of the taxpayer's spouse at the time the annuity was acquired, or

(II) for a term equal to 90 years minus the age in whole years of the taxpayer or the age in whole years of the taxpayer's spouse, at the time the annuity was acquired, or

(B) under which the taxpayer, or a trust under which the taxpayer is the sole person beneficially interested in amounts payable under the annuity, is the annuitant for a term not exceeding 18 years minus the age in whole years of the taxpayer at the time the annuity was acquired

(3) The portion of paragraph 60(n) of the English version of the Act before subparagraph (i) is replaced by the following:

Repayment of
pension or
benefits

(n) the amount of

(4) Paragraph 60(n) of the Act is amended by adding the word "or" at the end of subparagraph (ii.1) and by replacing the portion after that subparagraph with the following:

(iii) any amount or benefit described in subparagraph 56(1)(a)(iv) or paragraph 56(1)(r),

received by the taxpayer and included in computing the taxpayer's income for the year or a preceding taxation year, to the extent of the amount or benefit repaid by the taxpayer in the year otherwise than because of Part VII of the *Unemployment Insurance Act* or Part VII of the *Employment Insurance Act*;

(5) Subparagraph 60(o)(ii) of the Act is replaced by the following:

(ii) a decision of the Canada Employment and Immigration Commission, the Canada Employment and Insurance Commission, a board of referees or an umpire under the *Unemployment Insurance Act* or the *Employment Insurance Act*,

(6) Paragraphs 60(t) and (u) of the Act are replaced by the following:

RCA
distributions

(t) where an amount in respect of a particular retirement compensation arrangement is required by paragraph 56(1)(x) or (z) or subsection 70(2) to be included in computing the taxpayer's income for the year, an amount equal to the lesser of

(i) the total of all amounts in respect of the particular arrangement so required to be included in computing the taxpayer's income for the year, and

(ii) the amount, if any, by which the total of all amounts each of which is

(A) an amount (other than an amount deductible under paragraph 8(1)(m.2) or transferred to the particular arrangement under circumstances in which subsection 207.6(7)

applies) contributed under the particular arrangement by the taxpayer while it was a retirement compensation arrangement and before the end of the year,

(A.1) an amount transferred in respect of the taxpayer before the end of the year to the particular arrangement from another retirement compensation arrangement under circumstances in which subsection 207.6(7) applies, to the extent that the amount would have been deductible under this paragraph in respect of the other arrangement in computing the taxpayer's income if it had been received by the taxpayer out of the other arrangement,

(B) an amount paid by the taxpayer before the end of the year and at a time when the taxpayer was resident in Canada to acquire an interest in the particular arrangement, or

(C) an amount that was received or became receivable by the taxpayer before the end of the year and at a time when the taxpayer was resident in Canada as proceeds from the disposition of an interest in the particular arrangement,

exceeds the total of all amounts each of which is

(D) an amount deducted under this paragraph or paragraph (u) in respect of the particular arrangement in computing the taxpayer's income for a preceding taxation year, or

(E) an amount transferred in respect of the taxpayer before the end of the year from the particular arrangement to another retirement compensation arrangement under circumstances in which subsection 207.6(7) applies, to the extent that the amount would have been deductible under this paragraph in respect of the particular arrangement in computing the taxpayer's income if it had been received by the taxpayer out of the particular arrangement;

RCA
dispositions

(u) where an amount in respect of a particular retirement compensation arrangement is required by paragraph 56(1)(y) to be included in computing the taxpayer's income for the year, an amount equal to the lesser of

(i) the total of all amounts in respect of the particular arrangement so required to be included in computing the taxpayer's income for the year, and

(ii) the amount, if any, by which the total of all amounts each of which is

(A) an amount (other than an amount deductible under paragraph 8(1)(m.2) or transferred to the particular arrangement under circumstances in which subsection 207.6(7) applies) contributed under the particular arrangement by the taxpayer while it was a retirement compensation arrangement and before the end of the year,

(A.1) an amount transferred in respect of the taxpayer before the end of the year to the particular arrangement from another retirement compensation arrangement under circumstances in which subsection 207.6(7) applies, to the extent that the amount would have been deductible under paragraph (t) in respect of the other arrangement in computing the taxpayer's income if it had been received by the taxpayer out of the other arrangement, or

(B) an amount paid by the taxpayer before the end of the year and at a time when the taxpayer was resident in Canada to acquire an interest in the particular arrangement

exceeds the total of all amounts each of which is

(C) an amount deducted under paragraph (t) in respect of the particular arrangement in computing the taxpayer's income for the year or a preceding taxation year,

(D) an amount deducted under this paragraph in respect of the particular arrangement in computing the taxpayer's income for a preceding taxation year, or

(E) an amount transferred in respect of the taxpayer before the end of the year from the particular arrangement to another retirement compensation arrangement under circumstances in which subsection 207.6(7) applies, to the extent that the amount would have been deductible under paragraph (t) in respect of the particular arrangement in computing the taxpayer's income if it had been received by the taxpayer out of the particular arrangement;

(7) Paragraph 60(v.1) of the Act is replaced by the following:

UI and EI
benefit
repayment

(v.1) any benefit repayment payable by the taxpayer under Part VII of the *Unemployment Insurance Act* or Part VII of the *Employment Insurance Act* on or before April 30 of the following year, to the extent that the amount was not deductible in computing the taxpayer's income for any preceding taxation year; and

(8) Subsection (1) applies to amounts paid after 1996.

(9) Subsection (2) applies to the 1989 and subsequent taxation years.

(10) Subsections (3) to (5) and (7) are deemed to have come into force on June 30, 1996.

(11) Subsection (6) applies to the 1996 and subsequent taxation years.

100. (1) The portion of subsection 60.1(1) of the French version of the Act before paragraph (a) is replaced by the following:

Pension
alimentaire

60.1 (1) Pour l'application de l'alinéa 60(1)(b) et du paragraphe 118(5), dans le cas où une ordonnance ou un accord, ou une modification s'y rapportant, prévoit le paiement d'un montant à un contribuable ou à son profit, au profit d'enfants confiés à sa garde ou à la fois au profit du contribuable et de ces enfants, le montant ou une partie de celui-ci est réputé :

(2) Subsection (1) applies to amounts paid after 1996.

101. (1) The description of E in paragraph 61.3(1)(b) of the Act is replaced by the following:

E is 50% of the amount, if any, by which

(i) the amount that would be the corporation's income for the year if that amount were determined without reference to this section and section 61.4

exceeds

(ii) the amount determined under paragraph (a) in respect of the corporation for the year.

(2) The description of E in paragraph 61.3(2)(b) of the Act is replaced by the following:

E is 50% of the amount, if any, by which

(i) the amount that would be the corporation's taxable income or taxable income earned in Canada for the year if that amount were determined without reference to this section and section 61.4

exceeds

(ii) the amount determined under paragraph (a) in respect of the corporation for the year.

(3) Subsections (1) and (2) apply to taxation years that end after February 21, 1994.

102. (1) Paragraph 62(3)(f) of the Act is replaced by the following:

(f) where the old residence is sold by the taxpayer or the taxpayer's spouse as a result of the move, the cost to the taxpayer of legal services in respect of the purchase of the new residence and of any tax, fee or duty (other than any goods and services tax or value-added tax) imposed on the transfer or registration of title to the new residence,

(2) Subsection (1) applies to costs incurred after 1990.

103. (1) Paragraph (b) of the definition "earned income" in subsection 63(3) of the Act is replaced by the following:

(b) all amounts that are included, or that would, but for paragraph 81(1)(a), be included, because of section 6 or 7 or paragraph 56(1)(m), (n), (o) or (r), in computing the taxpayer's income,

(2) Paragraph (b) of the definition "earned income" in subsection 63(3) of the Act, as enacted by subsection 173(2) of the *Employment Insurance Act*, chapter 23 of the Statutes of Canada, 1996, is replaced by the following:

(b) all amounts that are included, or that would, but for paragraph 81(1)(a), be included, because of section 6 or 7 or paragraph 56(1)(n), (o) or (r), in computing the taxpayer's income,

(3) Subsection (1) applies after 1992 and before 1998.

(4) Subsection (2) applies after 1997.

104. (1) Subparagraph 66(4)(b)(ii) of the Act is amended by adding the following after clause (C):

determined as if no deductions were allowed under this subsection, subsections (1) and (3), section 65 and subsections 66.1(2) and (3).

(2) The portion of paragraph 66(4)(b) of the Act after subparagraph (ii) is repealed.

(3) Paragraph 66(11.4)(b) of the Act is replaced by the following:

(b) within the 12-month period that ended immediately before that time, the corporation or a partnership of which it was a majority interest partner acquired a Canadian resource property or a foreign resource property (other than a property that was owned by the corporation or partnership or a person that would, if section 251.1 were read without reference to the definition "controlled" in subsection 251.1(3), be affiliated with the corporation throughout the period that began immediately before the 12-month period began and ended at the time the property was acquired by the corporation or partnership), and

(4) Subsection 66(11.5) of the Act is replaced by the following:

Early change of control

(11.5) For the purpose of subsection (11.4), where the corporation referred to in that subsection was incorporated or otherwise formed in the 12-month period referred to in that subsection, the corporation is deemed to have been, throughout the period that began immediately before the 12-month period and ended immediately after it was incorporated or otherwise formed,

(a) in existence; and

(b) affiliated with every person with whom it was affiliated (otherwise than because of a right referred to in paragraph 251(5)(b)) throughout the period that began when it was incorporated or otherwise formed and ended immediately before its control was acquired.

(5) The portion of subsection 66(12.66) of the Act after paragraph (e) is replaced by the following:

<[ip0n,0n]>the corporation is for the purpose of subsection (12.6) or for the purposes of subsection (12.601) and paragraph (12.602)(b), as the case may be, deemed to have incurred the expenses on the last day of the year.

(6) The portion of paragraph 66(12.75)(c) of the Act before subparagraph (i) is replaced by the following:

(c) where the penalty is in respect of a renunciation referred to in subsection (12.741), the greater of

(7) Paragraph (c) of the definition "Canadian exploration and development expenses" in subsection 66(15) of the Act is replaced by the following:

(c) the cost to the taxpayer of any Canadian resource property acquired by the taxpayer after 1971,

(8) Subsections (1) and (2) apply to taxation years that end after May 6, 1974.

(9) Subsection (3) applies after April 26, 1995.

(10) Subsection (4) applies to acquisitions of control that occur after April 26, 1995.

(11) Subsection (5) applies to expenses incurred after 1992.

(12) Subsection (6) applies to renunciations purported to be made after February 1993.

(13) Subsection (7) applies to taxation years that begin after 1984.

105. (1) Section 66.6 of the Act is replaced by the following:

Acquisition
from tax-exempt

66.6 Where a corporation acquires, by purchase, amalgamation, merger, winding-up or otherwise, all or substantially all of the Canadian resource properties or foreign resource properties of a person whose taxable income is exempt from tax under this Part, subsection 29(25) of the *Income Tax Application Rules* and subsections 66.7(1) to (5) do not apply to the corporation in respect of the acquisition of the properties.

(2) Subsection (1) applies to acquisitions that occur after April 26, 1995, other than an acquisition that occurs before 1996 and that was required by an agreement in writing entered into before April 27, 1995.

106. (1) Subparagraph 66.7(1)(b)(iii) of the Act is replaced by the following:

(iii) all amounts added because of subsection 80(13) in computing the amount determined under subparagraph (i).

(2) Subparagraph 66.7(2)(b)(iv) of the Act is replaced by the following:

(iv) all amounts added because of subsection 80(13) in computing the amount determined under subparagraph (i),

(3) Subparagraph 66.7(3)(b)(iii) of the Act is replaced by the following:

(iii) all amounts added because of subsection 80(13) in computing the amount determined under subparagraph (i).

(4) Subparagraph 66.7(4)(b)(iii) of the Act is replaced by the following:

(iii) all amounts added because of subsection 80(13) in computing the amount determined under subparagraph (i).

(5) Subparagraph 66.7(5)(b)(iii) of the Act is replaced by the following:

(iii) all amounts added because of subsection 80(13) in computing the amount determined under subparagraph (i).

(6) Paragraph 66.7(10)(b) of the Act is replaced by the following:

(b) a corporation ceased on or before April 26, 1995 to be exempt from tax under this Part on its taxable income,

(7) Subsection 66.7(10) of the Act is amended by adding the following after paragraph (c):

(c.1) where the corporation did not own a foreign resource property immediately before that time, the corporation is deemed to have owned a foreign resource property immediately before that time,

(8) Subsections (1) to (5) apply to taxation years that end after February 21, 1994.

(9) Subsection (6) applies after April 26, 1995.

(10) Subsection (7) applies to taxation years that end after February 17, 1987.

107. (1) Subsections 69(2) and (3) of the Act are repealed.

(2) Paragraph 69(5)(a) of the Act is replaced by the following:

(a) the corporation is deemed, for the purpose of computing its income for the year, to have disposed of the property immediately before the winding-up for proceeds equal to its fair market value at that time;

(3) Subsection 69(5) of the Act is amended by adding the word "and" at the end of paragraph (c) and by replacing paragraphs (d) and (e) with the following:

(d) subsections 13(21.2), 14(12), 18(15) and 40(3.4) and (3.6) do not apply in respect of any property disposed of on the winding-up.

(4) Subsections 69(11) to (12.2) of the Act are replaced by the following:

Deemed proceeds
of disposition

(11) Where, at any particular time as part of a series of transactions or events, a taxpayer disposes of property for proceeds of disposition that are less than its fair market value and it can reasonably be considered that one of the main purposes of the series is

(a) to obtain the benefit of

(i) any deduction (other than a deduction under subsection 110.6(2.1) in respect of a capital gain from a disposition of a share acquired by the taxpayer in an acquisition to which subsection 85(3) or 98(3) applied) in computing income, taxable income, taxable income earned in Canada or tax payable under this Act, or

(ii) any balance of undeducted outlays, expenses or other amounts

available to a person (other than a person that would be affiliated with the taxpayer immediately before the series began, if section 251.1 were read without reference to the definition "controlled" in subsection 251.1(3)) in respect of a subsequent disposition of the property or property substituted for the property, or

(b) to obtain the benefit of an exemption available to any person from tax payable under this Act on any income arising on a subsequent disposition of the property or property substituted for the property,

notwithstanding any other provision of this Act, where the subsequent disposition occurs, or arrangements for the subsequent disposition are made, before the day that is 3 years after the particular time, the taxpayer is deemed to have disposed of the property at the particular time for proceeds of disposition equal to its fair market value at the particular time.

Reassessments

(12) Notwithstanding subsections 152(4) to (5), the Minister may at any time make any assessments or reassessments of the tax,

interest and penalties payable by the taxpayer that are necessary to give effect to subsection (11).

(5) Subsection 69(13) of the Act is replaced by the following:

Amalgamation or
merger

(13) Where there is an amalgamation or merger of a corporation with one or more other corporations to form one corporate entity (in this subsection referred to as the "new corporation"), each property of the corporation that becomes property of the new corporation as a result of the amalgamation or merger is deemed, for the purpose of determining whether subsection (11) applies to the amalgamation or merger, to have been disposed of by the corporation immediately before the amalgamation or merger for proceeds equal to

(a) in the case of a Canadian resource property or a foreign resource property, nil; and

(b) in the case of any other property, the cost amount to the corporation of the property immediately before the amalgamation or merger.

New taxpayer

(14) For the purpose of subsection (11), where a taxpayer is incorporated or otherwise comes into existence at a particular time during a series of transactions or events, the taxpayer is deemed

(a) to have existed at the time that was immediately before the series began; and

(b) to have been affiliated at that time with every person with whom the taxpayer is affiliated (otherwise than because of a right referred to in paragraph 251(5)(b)) at the particular time.

(6) Subsection (1) applies to taxation years that begin after 1997.

(7) Subsection (2) applies to windings-up that begin after 1995.

(8) Subsection (3) applies to windings-up that begin after April 26, 1995 except that, in its application to windings-up that began before 1996, paragraph 69(5)(d) of the Act, as enacted by subsection (3), shall be read as follows:

(d) subsections 13(21.2), 14(12), 18(15), 40(3.4) and (3.6) and 85(4) and (5.1) do not apply to the winding-up; and

(e) paragraph 40(2)(e) does not apply in computing the loss, if any, of the shareholder from the disposition of a share of the capital stock of the corporation to the corporation on the winding-up.

(9) Subsection (4) and subsection 69(14) of the Act, as enacted by subsection (5), apply to each disposition that is part of a series of transactions or events that begins after April 26, 1995, other than a disposition that occurred before 1996 to a person who was obliged on that day to acquire the property under the terms of an agreement in writing entered into on or before that day, and for the purpose of this subsection, a person is considered not to be obliged to acquire property where the person can be excused from the obligation if there is a change to the Act or if there is an adverse assessment under the Act.

(10) Subsection 69(13) of the Act, as enacted by subsection (5), applies to amalgamations and mergers that occur after April 26, 1995.

108. (1) Paragraph 70(3)(b) of the English version of the Act is replaced by the following:

(b) an amount received by one of the beneficiaries or persons on the realization or disposition of the right or thing shall be included in computing the income of the beneficiary or person for the taxation year in which the beneficiary or person received it.

(2) Paragraph (a) of the definition "share of the capital stock of a family farm corporation" in subsection 70(10) of the Act is amended by adding the following after subparagraph (i):

(i.1) a corporation controlled by a corporation referred to in subparagraph (i),

(3) Subsection (1) applies to taxation years that end after November 1991.

(4) Subsection (2) applies to the 1994 and subsequent taxation years.

109. (1) The definition "créancier" in subsection 79(1) of the French version of the Act is replaced by the following:

« créancier »
"creditor"

« créancier » Comprend une personne envers laquelle une personne donnée a l'obligation de payer un montant en vertu d'une hypothèque ou d'un droit semblable. Par ailleurs, lorsqu'un bien est vendu à la personne donnée dans le cadre d'une vente

conditionnelle, le vendeur du bien, ou tout cessionnaire par rapport à la vente, est réputé être un créancier de la personne donnée pour ce qui est du bien.

(2) Subsection (1) applies to property acquired or reacquired after February 21, 1994, other than property acquired or reacquired under a court order made before February 22, 1994.

110. (1) Subsection 79.1(8) of the Act is replaced by the following:

Claims for
debts

(8) Where a property is seized at any time in a taxation year by a creditor in respect of a debt, no amount in respect of the debt

(a) is deductible in computing the creditor's income for the year or a subsequent taxation year as a bad, doubtful or impaired debt; or

(b) shall be included after that time in computing, for the purposes of this Act, any balance of undeducted outlays, expenses or other amounts of the creditor as a bad, doubtful or impaired debt.

(2) Subsection (1) applies

(a) to taxation years that end after September 1997; and

(b) to a taxpayer's taxation years that end after 1995 and before October 1997 where the taxpayer files an election in accordance with paragraph 81(11)(b).

111. (1) The portion of the definition "unrecognized loss" in subsection 80(1) of the Act before paragraph (a) is replaced by the following:

"unrecognized
loss"
« *perte non
constatée* »

"unrecognized loss" at a particular time, in respect of an obligation issued by a debtor, from the disposition of a property means the amount that would, but for subparagraph 40(2)(g)(ii), be a capital loss from the disposition by the debtor at or before the particular time of a debt or other right to receive an amount, except that where the debtor is a corporation the control of which was acquired before the particular time and after the time of the disposition by a person or group of persons, the

unrecognized loss at the particular time in respect of the obligation is deemed to be nil unless

(2) Paragraph 80(2)(g) of the Act is replaced by the following:

(g) where a corporation issues a share (other than an excluded security) to a person as consideration for the settlement of a debt issued by the corporation and payable to the person, the amount paid in satisfaction of the debt because of the issue of the share is deemed to be equal to the fair market value of the share at the time it was issued;

(g.1) where a debt issued by a corporation and payable to a person is settled at any time, the amount, if any, that can reasonably be considered to be the increase, as a consequence of the settlement of the debt, in the fair market value of shares of the capital stock of the corporation owned by the person (other than any shares acquired by the person as consideration for the settlement of the debt) is deemed to be an amount paid at that time in satisfaction of the debt;

(3) Paragraph (b) of the description of B in subsection 80(13) of the Act is replaced by the following:

(b) the residual balance at that time in respect of the settlement of the obligation,

(4) Subsection 80(14) of the Act is replaced by the following:

Residual
balance

(14) For the purpose of subsection (13), the residual balance at any time in a taxation year in respect of the settlement of a particular commercial obligation issued by a debtor is the amount, if any, by which

(a) the gross tax attributes of directed persons at that time in respect of the debtor

exceeds the total of

(b) the value of A in subsection (13) in respect of the settlement of the particular obligation at that time,

(c) all amounts each of which is

(i) the amount, if any, by which the value of A in subsection (13) in respect of a settlement before that time and in the year of a commercial obligation issued by the debtor exceeds the value of C in that subsection in respect of the settlement,

(ii) the value of A in subsection (13) in respect of a settlement of a commercial obligation that is deemed by paragraph 80.04(4)(e) to have been issued by a directed person in respect of the debtor because of the filing of an agreement under section 80.04 in respect of a settlement before that time and in the year of a commercial obligation issued by the debtor, or

(iii) the amount specified in an agreement (other than an agreement with a directed person in respect of the debtor) filed under section 80.04 in respect of the settlement before that time and in the year of a commercial obligation issued by the debtor, and

(d) all amounts each of which is an amount in respect of a settlement at a particular time before that time and in the year of a commercial obligation issued by the debtor equal to the least of

(i) the total of all amounts designated under subsection (11) in respect of the settlement,

(ii) the residual balance of the debtor at the particular time, and

(iii) the amount, if any, by which the sum of the values of A and B in subsection (13) in respect of the settlement exceeds the value of C in that subsection in respect of the settlement.

Gross tax attributes

(14.1) The gross tax attributes of directed persons at any time in respect of a debtor means the total of all amounts each of which is an amount that would be applied under any of subsections (3) to (10) and (12) in respect of a settlement of a separate commercial obligation (in this subsection referred to as a "notional obligation") issued by directed persons at that time in respect of the debtor if the following assumptions were made:

(a) a notional obligation was issued immediately before that time by each of those directed persons and was settled at that time;

(b) the forgiven amount at that time in respect of each of those notional obligations was equal to the total of all amounts each of which is a forgiven amount at or before that time and in the year in respect of a commercial obligation issued by the debtor;

(c) amounts were designated under subsections (5), (7), (8), (9) and (10) by each of those directed persons to the maximum extent

permitted in respect of the settlement of each of those notional obligations; and

(d) no amounts were designated under subsection (11) by any of those directed persons in respect of the settlement of any of the notional obligations.

(5) Subsection 80(17) of the Act is repealed.

(6) Subsections (1) to (5) apply to taxation years that end after February 21, 1994.

112. (1) Subsection 80.03(1) of the Act is replaced by the following:

Definitions

80.03 (1) In this section, "commercial debt obligation", "commercial obligation", "distress preferred share", "forgiven amount" and "person" have the meanings assigned by subsection 80(1).

(2) Subsections 80.03(4) to (6) of the Act are repealed.

(3) The portion of subsection 80.03(7) of the Act before paragraph (a) is replaced by the following:

Alternative
treatment

(7) Where at any time in a taxation year a person disposes of a property, for the purposes of subsection (2) and section 80

(4) Subparagraph 80.03(7)(b)(ii) of the Act is replaced by the following:

(ii) the lesser of the amount so designated and the amount that would, but for this subsection, be a capital gain determined in respect of the disposition because of subsection (2) shall be treated as if it were the forgiven amount at the time of the settlement in respect of the obligation referred to in subparagraph (i),

(5) Subsections (1) to (4) apply to taxation years that end after February 21, 1994.

113. (1) Subsection 80.04(5) of the Act is amended by adding the word "and" at the end of paragraph (b), by striking out the word "and" at the end of paragraph (c) and by repealing paragraph (d).

(2) Section 80.04 of the Act is amended by adding the following after subsection (5):

No benefit
conferred

(5.1) For the purposes of this Part, where a debtor and an eligible transferee enter into an agreement that is filed under this section, no benefit shall be considered to have been conferred on the debtor as a consequence of the agreement.

(3) Paragraph 80.04(10)(a) of the Act is replaced by the following:

(a) where the transferee is a corporation, all taxes payable under this Act by it for taxation years that end in the period that begins at that time and ends 4 calendar years after that time;

(4) Subsections (1) to (3) apply to taxation years that end after February 21, 1994.

114. (1) Paragraph 82(1)(a) of the Act is amended by striking out the word "and" at the end of subparagraph (i) and by adding the following after subparagraph (i):

(i.1) where the taxpayer is a trust, all amounts each of which is all or part of a taxable dividend (other than a taxable dividend described in subparagraph (i)) that was received by the trust in the year on a share of the capital stock of a taxable Canadian corporation and that can reasonably be considered as having been included in computing the income of a beneficiary under the trust who was non-resident at the end of the year, and

(2) Clause 82(1)(a)(ii)(A) of the Act is replaced by the following:

(A) the total of all amounts received by the taxpayer in the year from corporations resident in Canada as, on account of, in lieu of payment of or in satisfaction of, taxable dividends, other than an amount included in computing the income of the taxpayer because of subparagraph (i) or (i.1)

(3) Subsections (1) and (2) apply to taxation years that end after April 26, 1995.

115. (1) Paragraph 84.1(2)(a.2) of the Act is repealed.

(2) Subsection 84.1(2) of the Act is amended by adding the word "and" at the end of paragraph (b) and by repealing paragraph (c).

(3) Subsection 84.1(2) of the Act is amended by striking out the word "and" at the end of paragraph (d) and by repealing paragraph (e).

(4) Section 84.1 of the Act is amended by adding the following after subsection (2):

Rules for par.
84.1(2)(a.1)

(2.01) For the purpose of paragraph (2)(a.1),

(a) where at any time a corporation issues a share of its capital stock to a taxpayer, the taxpayer and the corporation are deemed not to be dealing with each other at arm's length at that time;

(b) where a taxpayer is deemed by paragraph 110.6(19)(a) to have reacquired a share, the taxpayer is deemed to have acquired the share at the beginning of February 23, 1994 from a person with whom the taxpayer was not dealing at arm's length; and

(c) where a share owned by a particular person, or a share substituted for that share, has by one or more transactions or events between persons not dealing at arm's length become vested in another person, the particular person and the other person are deemed at all times not to be dealing at arm's length with each other whether or not the particular person and the other person coexisted.

(5) Section 84.1 of the Act is amended by adding the following after subsection (2.1):

Rules for par.
84.1(2)(b)

(2.2) For the purpose of paragraph (2)(b),

(a) in determining whether or not a taxpayer referred to in that paragraph was a member of a group of fewer than 6 persons that controlled a corporation at any time, any shares of the capital stock of that corporation owned at that time by

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

(ii) a trust of which the taxpayer, a person described in subparagraph (i) or a corporation described in subparagraph (iii), is a beneficiary, or

(iii) a corporation controlled by the taxpayer, by a person described in subparagraph (i) or (ii) or by any combination of those persons or trusts

are deemed to be owned at that time by the taxpayer and not by the person who actually owned the shares at that time;

(b) a group of persons in respect of a corporation means any 2 or more persons each of whom owns shares of the capital stock of the corporation;

(c) a corporation that is controlled by one or more members of a particular group of persons in respect of that corporation is considered to be controlled by that group of persons; and

(d) a corporation may be controlled by a person or a particular group of persons even though the corporation is also controlled or deemed to be controlled by another person or group of persons.

(6) Subsections (1) and (4), except paragraph 84.1(2.01)(c) of the Act, as enacted by subsection (4), apply to the 1994 and subsequent taxation years.

(7) Paragraph 84.1(2.01)(c) of the Act, as enacted by subsection (4), applies in respect of the determination of the adjusted cost base of a share after June 20, 1996.

116. (1) The portion of subsection 85(2) of the Act before paragraph (b) is replaced by the following:

Transfer of
property to
corporation
from
partnership

(2) Where

(a) a partnership has disposed, to a taxable Canadian corporation for consideration that includes shares of the corporation's capital stock, of any partnership property that was

(i) a capital property (other than real property, or an interest in or an option in respect of real property, where the partnership was not a Canadian partnership at the time of the disposition),

(ii) a property described in any of paragraphs (1.1)(c) to (f),
or

(iii) a property that would be described in paragraph (1.1)(g) or (g.1) if the references in those paragraphs to "taxpayer" were read as "partnership", and

(2) Subparagraph 85(4)(b)(ii) of the Act is replaced by the following:

(ii) the taxpayer's proceeds of disposition of the property or, where the property is an eligible capital property, $\frac{4}{3}$ of the taxpayer's eligible capital amount resulting from the disposition of the property, and

(3) Subsection 85(4) of the Act is repealed.

(4) Subsection 85(5) of the Act is replaced by the following:

Rules on
transfers of
depreciable
property

(5) Where subsection (1) or (2) has applied to a disposition at any time of depreciable property to a person (in this subsection referred to as the "transferee") and the capital cost to the transferor of the property exceeds the transferor's proceeds of disposition of the property, for the purposes of sections 13 and 20 and any regulations made for the purpose of paragraph 20(1)(a),

(a) the capital cost to the transferee of the property is deemed to be the amount that was its capital cost to the transferor; and

(b) the excess is deemed to have been deducted by the transferee under paragraph 20(1)(a) in respect of the property in computing income for taxation years that ended before that time.

(5) Subsection 85(5.1) of the Act is repealed.

(6) Subsection (1) applies to dispositions that occur after June 20, 1996.

(7) Subsection (2) applies

(a) in the case of a corporation, to dispositions by it of property that occur after the beginning of its first taxation year that begins after June 1988; and

(b) in any other case, to dispositions of property in respect of a business that occur after the beginning of the first fiscal period, that begins after 1987, of the business.

(8) Subject to section 247, subsections (3) to (5) apply to dispositions of property that occur after April 26, 1995.

117. (1) Subsection 87(2) of the Act is amended by adding the following after paragraph (g.2):

Superficial
losses

(g.3) for the purposes of applying subsections 13(21.2), 14(12), 18(15) and 40(3.4) to any property that was disposed of by a predecessor corporation before the amalgamation, the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Superficial
losses --
capital
property

(g.4) for the purpose of applying paragraph 40(3.5)(c) in respect of any share that was acquired by a predecessor corporation, the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

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

Prepaid
expenses and
matchable
expenditures

(j.2) for the purposes of subsections 18(9) and (9.01), section 18.1 and paragraph 20(1)(mm), the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

(3) Paragraph 87(2)(j.91) of the Act is replaced by the following:

Part I.3 and
Part VI tax

(j.91) for the purpose of determining the amount deductible under subsection 181.1(4) or 190.1(3) by the new corporation for any taxation year, the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation, except that this paragraph does not affect the determination of the fiscal period of any corporation or the tax payable by any predecessor corporation;

(4) Paragraph 87(2)(j.94) of the Act is replaced by the following:

Film or video
productions

(j.94) for the purposes of sections 125.4 and 125.5, the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

(5) Paragraph 87(2)(l.21) of the Act is replaced by the following:

(l.21) for the purposes of section 61.3, the definition "unrecognized loss" in subsection 80(1) and subsection 80.01(10), the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

(6) Paragraph 87(2)(x) of the Act is replaced by the following:

Taxable
dividends

(x) for the purposes of subsections 112(3) to (4.22),

(i) any taxable dividend received on a share that was deductible from the predecessor corporation's income for a taxation year under section 112 or subsection 138(6) is deemed to be a taxable dividend received on the share by the new corporation that was deductible from the new corporation's income under section 112 or subsection 138(6), as the case may be,

(ii) any dividend (other than a taxable dividend) received on a share by the predecessor corporation is deemed to have been received on the share by the new corporation, and

(iii) a share acquired by the new corporation from a predecessor corporation is deemed to have been owned by the new corporation throughout any period of time throughout which it was owned by a predecessor corporation;

(7) Paragraph 87(2)(y.1) of the Act is repealed.

(8) Paragraph 87(2)(bb) of the Act is replaced by the following:

Mutual fund and
investment
corporations

(bb) where the new corporation is a mutual fund corporation or an investment corporation, there shall be added to

(i) the amount determined under each of paragraphs (a) and (b) of the definition "capital gains dividend account" in subsection 131(6), and

(ii) the values of A and B in the definition "refundable capital gains tax on hand" in that subsection

in respect of the new corporation at any time the amounts so determined and the values of those factors immediately before the amalgamation in respect of each predecessor corporation that was, immediately before the amalgamation, a mutual fund corporation or an investment corporation;

Flow-through
entities

(bb.1) where a predecessor corporation was, immediately before the amalgamation, an investment corporation, a mortgage investment corporation or a mutual fund corporation and the new corporation is an investment corporation, a mortgage investment corporation or a mutual fund corporation, as the case may be, for the purpose of section 39.1, the new corporation is deemed to be the same corporation as, and a continuation of, the predecessor corporation;

(9) Paragraph 87(2)(qq) of the Act is replaced by the following:

Continuation of
corporation

(qq) for the purpose of computing the new corporation's investment tax credit at the end of any taxation year, the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation, except that this paragraph does not affect the determination of the fiscal period of any corporation or the tax payable by any predecessor corporation;

(10) Paragraph 87(2.1)(b) of the Act is replaced by the following:

(b) determining the extent to which subsections 111(3) to (5.4) and paragraph 149(10)(c) apply to restrict the deductibility by the new corporation of any non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss, as the case may be,

(11) Subsection 87(2.11) of the Act is replaced by the following:

Vertical
amalgamations

(2.11) Where a new corporation is formed by the amalgamation of a particular corporation and one or more of its subsidiary wholly-owned corporations, the new corporation is deemed to be the same corporation as, and a continuation of, the particular corporation for the purposes of applying sections 111 and 126, subsections 127(5) to (26) and 181.1(4) to (7), Part IV and subsections 190.1(3) to (6) in respect of the particular corporation.

(12) Subsection 87(9) of the Act is amended by adding the following after paragraph (a.4):

(a.5) for the purpose of applying subsection (10) in respect of the merger,

(i) the reference in paragraph (10)(b) to "the new corporation" shall be read as a reference to "the new corporation or the parent, within the meaning assigned by subsection (9)", and

(ii) the references in paragraphs (10)(c) and (f) to "the new corporation" shall be read as references to "the public corporation described in paragraph (b)".

(13) Section 87 of the Act is amended by adding the following after subsection (9):

Share deemed
listed

(10) Where

(a) a new corporation is formed as a result of an amalgamation,

(b) the new corporation is a public corporation,

(c) the new corporation issues a share (in this subsection referred to as the "new share") of its capital stock,

(d) the new share is issued in exchange for a share (in this subsection referred to as the "old share") of the capital stock of a predecessor corporation,

(e) immediately before the amalgamation, the old share was listed on a prescribed stock exchange, and

(f) the new share is redeemed, acquired or cancelled by the new corporation within 60 days after the amalgamation,

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

Vertical
amalgamations

(11) Where at any time there is an amalgamation of a corporation (in this subsection referred to as the "parent") and one or more other corporations (each of which in this subsection is referred to as the "subsidiary") each of which is a subsidiary wholly-owned corporation of the parent,

(a) the shares of the subsidiary are deemed to have been disposed of by the parent immediately before the amalgamation for proceeds equal to the proceeds that would be determined under paragraph 88(1)(b) if subsections 88(1) and (1.7) applied, with any modifications that the circumstances require, to the amalgamation; and

(b) the cost to the new corporation of each capital property of the subsidiary acquired on the amalgamation is deemed to be the amount that would have been the cost to the parent of the property if the property had been distributed at that time to the parent on a winding-up of the subsidiary and subsections 88(1) and (1.7) had applied to the winding-up.

(14) Subsections (1) and (3) apply to amalgamations that occur, and windings-up that begin, after April 26, 1995.

(15) Subsection (2) applies after November 17, 1996.

(16) Subsection (4) applies to amalgamations that occur and windings-up that begin after October 1997.

(17) Subsection (5) applies to taxation years that end after February 21, 1994.

(18) Subsection (6) applies to the 1994 and subsequent taxation years except that, in its application to dispositions of shares that occurred before April 27, 1995, paragraph 87(2)(x) of the Act, as enacted by subsection (6), shall be read as follows:

(x) for the purposes of subsections 112(3) to (4.3),

(i) any taxable dividend received on a share that was deductible from the predecessor corporation's income for a taxation year under section 112 or subsection 138(6) is deemed to be a taxable dividend received on the share by the new

corporation that was deductible from the new corporation's income under section 112 or 138(6), as the case may be,

(ii) any capital dividend or life insurance capital dividend received on a share by the predecessor corporation is deemed to be a capital dividend or life insurance capital dividend, as the case may be, received on the share by the new corporation, and

(iii) a share acquired by the new corporation from a predecessor corporation is deemed to have been owned by the new corporation throughout any period of time throughout which it was owned by a predecessor corporation;

(19) Subsection (7) applies to taxes payable for taxation years that begin after 1986.

(20) Paragraph 87(2)(bb) of the Act, as enacted by subsection (8), applies to amalgamations that occur after 1991 except that, for amalgamations that occurred after 1991 and before February 23, 1994, subparagraph 87(2)(bb)(i) of the Act, as enacted by that subsection, shall be read as follows:

(i) the amount determined under each of paragraphs (a) to (g) of the definition "capital gains dividend account" in subsection 131(6), and

(21) Paragraph 87(2)(bb.1) of the Act, as enacted by subsection (8), applies to amalgamations that occur after 1993.

(22) Subsections (9) and (11) apply to amalgamations that occur after April 26, 1995.

(23) Subsection (10) applies to a corporation that becomes or ceases to be exempt from tax under Part I of the Act after April 26, 1995.

(24) Subsection (12) applies to amalgamations that occur after April 26, 1995 except that, in its application to amalgamations that occurred before 1998, paragraph 87(9)(a.5) of the Act, as enacted by subsection (12), shall be read as follows:

(a.5) for the purpose of applying subsection (10) in respect of the merger,

(i) any share issued by the parent on the merger is deemed to have been issued by the new corporation, and

(ii) the reference in paragraph (10)(f) to "the new corporation" shall be read as a reference to "the corporation that issued the share";

(25) Subsection 87(10) of the Act, as enacted by subsection (13), applies to amalgamations that occur after April 26, 1995 except that, in its application to amalgamations that occurred before July 1996, that subsection 87(10) shall be read without reference to paragraph (b).

(26) Subject to subsection (27), subsection 87(11) of the Act, as enacted by subsection (13), applies to amalgamations that occur after 1994, and for the purpose of paragraph 87(11)(b) of the Act, as enacted by subsection (13), any designation by a new corporation of an amount under paragraph 88(1)(d) of the Act that is filed with the Minister of National Revenue before the end of the third month after the month in which this Act is assented to is deemed to have been made by the new corporation in its return of income under Part I of the Act for its first taxation year.

(27) Where the new corporation formed on an amalgamation that occurred before June 20, 1996 so elects in writing, filed with the Minister of National Revenue with the return of income under Part I of the Act for the parent's taxation year that ended immediately before the amalgamation, or within 90 days after any assessment or reassessment of tax payable under that Part for the year, subsection 87(11) of the Act, as enacted by subsection (13), does not apply to the amalgamation.

118. (1) Subparagraph 88(1)(a)(i) of the Act is replaced by the following:

(i) in the case of a Canadian resource property, a foreign resource property or a right to receive production (as defined in subsection 18.1(1)) to which a matchable expenditure (as defined in subsection 18.1(1)) relates, nil, and

(2) Subparagraph 88(1)(c)(v) of the Act is replaced by the following:

(v) property acquired by the subsidiary from the parent or from any person or partnership that was not (otherwise than because of a right referred to in paragraph 251(5)(b)) dealing at arm's length with the parent, or any other property acquired by the subsidiary in substitution for it, where the acquisition was part of the series of transactions or events in which the parent last acquired control of the subsidiary, and

(3) The portion of subparagraph 88(1)(c)(vi) of the Act before subclause (B)(I) is replaced by the following:

(vi) property distributed to the parent on the winding-up where, as part of the series of transactions or events that includes the winding-up,

(A) the parent acquired control of the subsidiary, and

(B) any property distributed to the parent on the winding-up or any other property acquired by any person in substitution therefor is acquired by

(4) Sub-subclause 88(1)(c)(vi)(B)(III)2 of the Act is replaced by the following:

2. of which a particular person would be, at any time during the course of the series and after control of the subsidiary was last acquired by the parent, a specified shareholder if all the shares then owned by persons (other than specified persons) referred to in subclause (II) and acquired by those persons as part of the series were owned at that time by the particular person;

(5) Paragraph 88(1)(c.2) of the Act is amended by striking out the word "and" at the end of subparagraph (i), by adding the word "and" at the end of subparagraph (ii) and by adding the following after subparagraph (ii):

(iii) in determining whether a person is a specified shareholder of a corporation,

(A) the reference in the definition "specified shareholder" in subsection 248(1) to "or of any other corporation that is related to the corporation" shall be read as "or of any other corporation that is related to the corporation and that has a significant direct or indirect interest in any issued shares of the capital stock of the corporation", and

(B) a corporation is deemed not to be a specified shareholder of itself;

(6) Subsection 88(1) of the Act is amended by adding the following after paragraph (c.2):

(c.3) for the purpose of clause (c)(vi)(B), property acquired by any person in substitution for particular property or properties distributed to the parent on the winding-up includes

(i) property (other than a specified property) owned by the person at any time after the acquisition of control referred to in clause (c)(vi)(A) the fair market value of which is, at that time, wholly or partly attributable to the particular property or properties, and

(ii) property owned by the person at any time after the acquisition of control referred to in clause (c)(vi)(A) the fair market value of which is, at that time, determinable

primarily by reference to the fair market value of, or to any proceeds from a disposition of, the particular property or properties

but does not include

(iii) money,

(iv) property that was not owned by the person at any time after the acquisition of control referred to in clause (c)(vi)(A), or

(v) property described in subparagraph (i) if the only reason the property is described in that subparagraph is because a specified property described in any of subparagraphs (c.4)(i) to (iv) was received as consideration for the acquisition of a share of the capital stock of the subsidiary in the circumstances described in subparagraphs (c.4)(i) to (iv);

(c.4) for the purposes of subparagraphs (c.3)(i) and (v), a specified property is

(i) a share of the capital stock of the parent that was received as consideration for the acquisition of a share of the capital stock of the subsidiary by the parent or by a corporation that was a specified subsidiary corporation of the parent immediately before the acquisition,

(ii) an indebtedness that was issued by the parent as consideration for the acquisition of a share of the capital stock of the subsidiary by the parent,

(iii) a share of the capital stock of a taxable Canadian corporation that was received as consideration for the acquisition of a share of the capital stock of the subsidiary by the taxable Canadian corporation or by the parent where the parent was a specified subsidiary corporation of the taxable Canadian corporation immediately before the acquisition,

(iv) an indebtedness of a taxable Canadian corporation that was issued by it as consideration for the acquisition of a share of the capital stock of the subsidiary by the taxable Canadian corporation or by the parent where the parent was a specified subsidiary corporation of the taxable Canadian corporation immediately before the acquisition,

(v) where the subsidiary was formed on the amalgamation of 2 or more predecessor corporations at least one of which was a subsidiary wholly-owned corporation of the parent, a share of the capital stock of the subsidiary

(A) that was issued on the amalgamation in exchange for a share of the capital stock of a predecessor corporation, and

(B) that was, immediately after the amalgamation, redeemed, acquired or cancelled by the subsidiary for money, and

(vi) where the subsidiary was formed on the amalgamation of 2 or more predecessor corporations at least one of which was a wholly-owned corporation of the parent, a share of the capital stock of the parent

(A) that was issued on the amalgamation in exchange for a share of the capital stock of a predecessor corporation, and

(B) that was, immediately after the amalgamation, redeemed, acquired or cancelled by the parent for money;

(c.5) for the purpose of paragraph (c.4), a corporation is a specified subsidiary corporation of another corporation, at any time, where the other corporation holds, at that time, shares of the corporation

(i) that give the shareholder 90% or more of the votes that could be cast under all circumstances at an annual meeting of shareholders of the corporation, and

(ii) having a fair market value of 90% or more of the fair market value of all the issued shares of the capital stock of the corporation;

(c.6) for the purpose of paragraph (c.3) and notwithstanding subsection 256(9), where control of a corporation is acquired by way of articles of arrangement, that control is deemed to have been acquired at the end of the day on which the arrangement becomes effective;

(c.7) for the purpose of subparagraph (c)(iii), a leasehold interest in a depreciable property and an option to acquire a depreciable property are depreciable properties;

(7) The portion of paragraph 88(1)(d) of the Act after subparagraph (iii) is repealed.

(8) Paragraph 88(1)(d.1) of the Act is replaced by the following:

(d.1) subsection 84(2) and section 21 of the *Income Tax Application Rules* do not apply to the winding-up of the subsidiary, and subsections 13(21.2) and 14(12) do not apply to the winding-up of the subsidiary with respect to property acquired by the parent on the winding-up;

(9) Paragraph 88(1)(d.2) of the Act is replaced by the following:

(d.2) in determining, for the purposes of this paragraph and paragraphs (c) and (d), the time at which a person or group of persons (in this paragraph and paragraph (d.3) referred to as the "acquirer") last acquired control of the subsidiary, where control of the subsidiary was acquired from another person or group of persons (in this paragraph referred to as the "vendor") with whom the acquirer was not (otherwise than solely because of a right referred to in paragraph 251(5)(b)) dealing at arm's length, the acquirer is deemed to have last acquired control of the subsidiary at the earlier of

(i) the time at which the vendor last acquired control (within the meaning that would be assigned by subsection 186(2) if the reference in that subsection to "another corporation" were read as "a person" and the references in that subsection to "the other corporation" were read as "the person") of the subsidiary, and

(ii) the time at which the vendor was deemed for the purpose of this paragraph to have last acquired control of the subsidiary;

(d.3) for the purposes of paragraphs (c), (d) and (d.2), where at any time control of a corporation is last acquired by an acquirer because of an acquisition of shares of the capital stock of the corporation as a consequence of the death of an individual, the acquirer is deemed to have last acquired control of the corporation immediately after the death from a person who dealt at arm's length with the acquirer;

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

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

(11) Subparagraphs 88(1)(e.2)(xiv) and (xv) of the Act are repealed.

(12) Section 88 of the Act is amended by adding the following after subsection (1.6):

Interpretation

(1.7) For the purposes of paragraphs (1)(c) and (d), where a parent of a subsidiary did not deal at arm's length with another person (other than a corporation the control of which was acquired

by the parent from a person with whom the parent dealt at arm's length) at any time before the winding-up of the subsidiary, the parent and the other person are deemed never to have dealt with each other at arm's length, whether or not the parent and the other person coexisted.

(13) Subsection (1) applies after November 17, 1996.

(14) Subsection (2) applies to windings-up that begin after 1996.

(15) Subsection (3) applies to windings-up that begin after June 20, 1996, other than windings-up that are part of an arrangement that was substantially advanced, as evidenced in writing, before June 21, 1996.

(16) Subsections (4) and (5) apply to windings-up that begin after November 1994.

(17) Paragraphs 88(1)(c.3), (c.4) and (c.5) of the Act, as enacted by subsection (6), apply to windings-up that begin after February 21, 1994 except that, in its application to windings-up that began before June 21, 1996 and to windings-up that begin after June 20, 1996 that are part of an arrangement that was substantially advanced, as evidenced in writing, before June 21, 1996, paragraph 88(1)(c.3) of the Act, as enacted by subsection (6), shall be read as follows:

(c.3) for the purpose of clause (c)(vi)(B), property acquired by any person in substitution for particular property or properties

(i) includes property owned by the person at any time after the acquisition of control referred to in clause (c)(vi)(A) the fair market value of which is, at that time, determinable primarily by reference to the fair market value of the particular property or properties or by reference to any proceeds from a disposition of the particular property or properties, but

(ii) does not include property that is money received as consideration for a disposition of the particular property or properties;

(18) Paragraph 88(1)(c.6) of the Act, as enacted by subsection (6), applies to windings-up that begin after June 20, 1996.

(19) Subsections (7) and (12) apply to windings-up that begin after February 21, 1994.

(20) Subsection (8) applies to windings-up that begin after April 26, 1995 except that, in its application to windings-up that began before 1996, the reference in paragraph 88(1)(d.1) of the Act, as

enacted by subsection (8), to "subsections 13(21.2) and 14(12)" shall be read as a reference to "subsections 13(21.2), 14(12) and 85(5.1)".

(21) Subsection (9) applies to windings-up that begin after December 20, 1991.

(22) Subsections (10) and (11) apply to windings-up that begin after June 1995.

119. (1) Paragraph (d) of the definition "société canadienne" in subsection 89(1) of the French version of the Act is replaced by the following:

d) d'autre part, chacune des sociétés était une société canadienne immédiatement avant le moment quelconque.

(2) Subsection (1) applies after June 14, 1994.

120. (1) The portion of subsection 93(4) of the Act before paragraph (a) is replaced by the following:

Loss on
disposition of
shares of
foreign
affiliate

(4) Where a taxpayer resident in Canada or a foreign affiliate of the taxpayer (in this subsection referred to as the "vendor") has acquired shares of a foreign affiliate of the taxpayer (in this subsection referred to as the "acquired affiliate") on the disposition of shares of any other foreign affiliate of the taxpayer (other than a disposition to which subsection 40(3.4) applies),

(2) Subject to section 247, subsection (1) applies to dispositions of property that occur after April 26, 1995.

121. (1) The description of A in the definition "designated cost" in subsection 94.1(2) of the Act is replaced by the following:

A is the cost amount to the taxpayer of the property at that time (determined without reference to paragraphs 53(1)(m) and (q), subparagraph 53(2)(c)(i.3), paragraphs 53(2)(g) and (g.1) and section 143.2),

(2) The description of D in the definition "designated cost" in subsection 94.1(2) of the Act is replaced by the following:

D is

(a) where the taxpayer has held or has had the interest in the property at all times since the end of 1984, the amount, if any, by which the fair market value of the property at the end of 1984 exceeds the cost amount to the taxpayer of the property at the end of 1984, or

(b) in any other case, the total of

(i) the amount, if any, by which the fair market value of the property at the particular time the taxpayer acquired the property exceeds the cost amount to the taxpayer of the property at the particular time, and

(ii) the amount, if any, by which

(A) the total of all amounts each of which is an amount that would have been included in respect of the property because of this section in computing the taxpayer's income for a taxation year that began before June 20, 1996 if the cost to the taxpayer of the property were equal to the fair market value of the property at the particular time

exceeds

(B) the total of all amounts each of which is an amount that was included in respect of the property because of this section in computing the taxpayer's income for a taxation year that began before June 20, 1996,

(3) Subsection (1) applies after September 26, 1994, except that the description of A in the definition "designated cost" in subsection 94.1(2) of the Act, as enacted by subsection (1), as it applies to taxation years that ended before April 27, 1995, shall be read as follows:

A is the cost amount to the taxpayer of the property at that time (determined without reference to paragraph 53(1)(m), subparagraph 53(2)(c)(i.3) and section 143.2),

(4) Subsection (2) applies to taxation years that begin after June 20, 1996.

122. (1) Paragraph (a) of the definition "bien exclu" in subsection 95(1) of the French version of the Act is replaced by the following:

a) soit qu'elle utilise ou détient principalement en vue de tirer un revenu provenant d'une entreprise exploitée activement;

(2) The description of C in the definition "foreign accrual property income" in subsection 95(1) of the Act is amended by striking out the word "and" at the end of paragraph (a) and by adding the following after paragraph (b):

(c) the words "other than a controlled foreign affiliate of the taxpayer or a prescribed non-resident entity" in paragraph 94.1(1)(a) were replaced by the words "other than a prescribed non-resident entity or a controlled foreign affiliate of a person resident in Canada of whom the taxpayer is a controlled foreign affiliate", and

(d) the words "other than a capital gain" in paragraph 94.1(1)(g) were replaced by the words "other than any income that would not be included in the taxpayer's foreign accrual property income for the year if the value of C in the definition "foreign accrual property income" in subsection 95(1) were nil and other than a capital gain",

(3) The definition "lending of money" in subsection 95(1) of the Act is amended by adding the following after paragraph (d):

and for the purpose of this definition, the definition "lending asset" in subsection 248(1) shall be read without the words "but does not include a prescribed property";

(4) Subsection 95(1) of the Act is amended by adding the following in alphabetical order:

"trust company"
« *société de
fiducie* »

"trust company" includes a corporation that is resident in Canada and that is a loan company as defined in subsection 2(1) of the *Canadian Payments Association Act*.

(5) Subparagraph 95(2)(g.1)(ii) of the Act is replaced by the following:

(ii) without reference to subsections 80(3) to (12) and (15) and 80.01(5) to (11) and sections 80.02 to 80.04;

(6) Subsection (2) applies to taxation years that end after November 1991, except that paragraph (d) of the description of C in the definition "foreign accrual property income" in subsection 95(1) of the Act, as enacted by subsection (2), does not apply to taxation years that began before June 20, 1996.

(7) Subsection (3) applies to taxation years of foreign affiliates of taxpayers that begin after 1994, but where there was

a change in the taxation year of a foreign affiliate of a taxpayer in 1994 and after February 22, 1994, subsection (3) applies to taxation years of the foreign affiliate that end after 1994 unless

(a) the foreign affiliate had requested the change in writing before February 22, 1994 from the income taxation authority of the country in which the foreign affiliate was resident and subject to income taxation, or

(b) the foreign affiliate's first taxation year that began after 1994 began at a time in 1995 that is earlier than the time when that taxation year would have begun if the change had not occurred,

except that, for taxation years of a foreign affiliate that ended before October 1997, the portion of the definition "lending of money" in subsection 95(1) of the Act after paragraph (d), as enacted by subsection (3), shall be read as follows:

and for the purpose of this definition, the definition "lending asset" in subsection 248(1) shall be read without the words "but does not include a prescribed security";

(8) Subsection (4) applies to taxation years of foreign affiliates of taxpayers that begin after 1994 except that, where there was a change in the taxation year of a foreign affiliate of a taxpayer in 1994 and after February 22, 1994, subsection (4) applies to taxation years of the foreign affiliate that end after 1994 unless

(a) the foreign affiliate had requested the change in writing before February 22, 1994 from the income taxation authority of the country in which the foreign affiliate was resident and subject to income taxation; or

(b) the foreign affiliate's first taxation year that began after 1994 began at a time in 1995 that is earlier than the time when that taxation year would have begun if the change had not occurred.

(9) Subsection (5) applies to taxation years that end after February 21, 1994.

123. (1) Paragraph 96(2.2)(c) of the Act is replaced by the following:

(c) all amounts each of which is an amount owing at that time to the partnership, or to a person or partnership not dealing at arm's length with the partnership, by the taxpayer or by a person or partnership not dealing at arm's length with the taxpayer, other than any amount deducted under subparagraph 53(2)(c)(i.3)

in computing the adjusted cost base, or under section 143.2 in computing the cost, to the taxpayer of the taxpayer's partnership interest at that time, and

(2) The portion of paragraph 96(2.2)(d) of the Act before subparagraph (i) is replaced by the following:

(d) any amount or benefit that the taxpayer or a person not dealing at arm's length with the taxpayer is entitled, either immediately or in the future and either absolutely or contingently, to receive or to obtain, whether by way of reimbursement, compensation, revenue guarantee, proceeds of disposition, loan or any other form of indebtedness or in any other form or manner whatever, granted or to be granted for the purpose of reducing the impact, in whole or in part, of any loss that the taxpayer may sustain because the taxpayer is a member of the partnership or holds or disposes of an interest in the partnership, except to the extent that the amount or benefit is included in the determination of the value of J in the definition "cumulative Canadian exploration expense" in subsection 66.1(6), of M in the definition "cumulative Canadian development expense" in subsection 66.2(5) or of I in the definition "cumulative Canadian oil and gas property expense" in subsection 66.4(5) in respect of the taxpayer, or the entitlement arises

(3) Subparagraphs 96(2.2)(d)(iv) and (v) of the Act are repealed.

(4) The portion of subsection 96(2.2) of the Act after paragraph (d) is replaced by the following:

and, for the purposes of this subsection,

(e) where the amount or benefit to which the taxpayer or the person is entitled at any time is provided by way of an agreement or other arrangement under which the taxpayer or the person has a right, either immediately or in the future and either absolutely or contingently (otherwise than as a consequence of the death of the taxpayer), to acquire other property in exchange for all or any part of the partnership interest, for greater certainty the amount or benefit to which the taxpayer or the person is entitled under the agreement or arrangement is considered to be not less than the fair market value of the other property at that time, and

(f) where the amount or benefit to which the taxpayer or the person is entitled at any time is provided by way of a guarantee, security or similar indemnity or covenant in respect of any loan or other obligation of the taxpayer or the person, for greater certainty the amount or benefit to which the taxpayer or the person is entitled under the guarantee or indemnity at any particular time is considered to be not less than the total of

the unpaid amount of the loan or obligation at that time and all other amounts outstanding in respect of the loan or obligation at that time.

(5) Subsection 96(2.4) of the Act is replaced by the following:

Limited partner

(2.4) For the purposes of this section and sections 111 and 127, a taxpayer who is a member of a partnership at a particular time is a limited partner of the partnership at that time if the member's partnership interest is not an exempt interest (within the meaning assigned by subsection (2.5)) at that time and if, at that time or within 3 years after that time,

(a) by operation of any law governing the partnership arrangement, the liability of the member as a member of the partnership is limited;

(b) the member or a person not dealing at arm's length with the member is entitled, either immediately or in the future and either absolutely or contingently, to receive an amount or to obtain a benefit that would be described in paragraph (2.2)(d) if that paragraph were read without reference to subparagraphs (ii) and (vi);

(c) one of the reasons for the existence of the member who owns the interest

(i) can reasonably be considered to be to limit the liability of any person with respect to that interest, and

(ii) cannot reasonably be considered to be to permit any person who has an interest in the member to carry on that person's business (other than an investment business) in the most effective manner; or

(d) there is an agreement or other arrangement for the disposition of an interest in the partnership and one of the main reasons for the agreement or arrangement can reasonably be considered to be to attempt to avoid the application of this subsection to the member.

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

Agreement or
election of
partnership
members

(3) Where a taxpayer who was a member of a partnership during a fiscal period has, for any purpose relevant to the computation of the taxpayer's income from the partnership for the fiscal period, made or executed an agreement, designation or an election under or in respect of the application of any of subsections 13(4), (15) and (16) and 14(6), section 15.2, subsections 20(9) and 21(1) to (4), section 22, subsection 29(1), section 34, clause 37(8)(a)(ii)(B), subsections 44(1) and (6), 50(1) and 80(5), (9), (10) and (11), section 80.04 and subsections 97(2) and 249.1(4) and (6) that, but for this subsection, would be a valid agreement, designation or election,

(7) Subsections (1) and (2) apply after November 1994.

(8) Subsection (3) applies to partnership interests acquired by a taxpayer after April 26, 1995, other than where

(a) the interest in the partnership is acquired by the taxpayer under the terms of an agreement in writing entered into by the taxpayer before April 27, 1995, or the interest was acquired by the taxpayer

(i) before 1996 where

(A) all or substantially all of the property of the partnership is

(I) a film production prescribed for the purpose of subparagraph 96(2.2)(d)(ii) of the Act, or

(II) an interest in one or more partnerships all or substantially all of the property of which is a film production prescribed for the purpose of subparagraph 96(2.2)(d)(ii) of the Act,

(B) the principal photography of the production began before 1996, or, in the case of a production that is a television series, the principal photography of one episode of the series began before 1996, and

(C) the principal photography of the production was completed before March 1996,

(ii) before 1996 where it can reasonably be considered that the funds raised by the partnership through the issue of the interest were used by the partnership to acquire before 1996 property included in Class 24, 27 or 34 in Schedule II to the *Income Tax Regulations* and the property was

(A) acquired under an agreement in writing entered into by the partnership before April 27, 1995, or

(B) under construction by or on behalf of the partnership on April 26, 1995,

(iii) before July 1995 under the terms of a document that is a prospectus, preliminary prospectus or registration statement filed before April 27, 1995 with a public authority in Canada under and in accordance with the securities legislation of Canada or of any province and, where required by law, accepted for filing by the public authority, and the funds so raised were expended before 1996 on expenditures contemplated by the document, or

(iv) before July 1995 under the terms of an offering memorandum distributed as part of an offering of securities where

(A) the memorandum contained a complete or substantially complete description of the securities contemplated in the offering as well as the terms and conditions of the offering,

(B) the memorandum was distributed before April 27, 1995,

(C) solicitations in respect of the sale of the securities contemplated by the memorandum were made before April 27, 1995,

(D) the sale of the securities was substantially in accordance with the memorandum, and

(E) the funds were spent before 1996 in accordance with the memorandum; and

(b) the following conditions are met:

(i) in the case of an interest

(A) acquired by the taxpayer under the terms of an agreement in writing entered into by the taxpayer before April 27, 1995, or

(B) to which subparagraph (a)(iii) or (iv) applies

that is a tax shelter for which section 237.1 of the Act requires an identification number to be obtained, an identification number was obtained before April 27, 1995, and

(ii) there is no agreement or other arrangement under which the taxpayer's obligations with respect to the interest can be changed, reduced or waived if there is a change to the Act or if there is an adverse assessment under the Act.

(9) Subsection (4) applies to partnership interests acquired by a taxpayer after April 26, 1995, except that it does not apply where

(a) the interest was acquired by the taxpayer

(i) under the terms of an agreement in writing entered into by the taxpayer before April 27, 1995,

(ii) before July 1995 under the terms of a document that is a prospectus, preliminary prospectus or registration statement filed before April 27, 1995 with a public authority in Canada under and in accordance with the securities legislation of Canada or of any province and, where required by law, accepted for filing by the public authority, and the funds so raised were expended before 1996 on expenditures contemplated by the document, or

(iii) before July 1995 under the terms of an offering memorandum distributed as part of an offering of securities where

(A) the memorandum contained a complete or substantially complete description of the securities contemplated in the offering as well as the terms and conditions of the offering,

(B) the memorandum was distributed before April 27, 1995,

(C) solicitations in respect of the sale of the securities contemplated by the memorandum were made before April 27, 1995,

(D) the sale of the securities was substantially in accordance with the memorandum, and

(E) the funds were spent before 1996 in accordance with the memorandum; and

(b) the following conditions are met:

(i) in the case of an interest that is a tax shelter for which section 237.1 of the Act requires an identification number to be obtained, an identification number was obtained before April 27, 1995, and

(ii) there is no agreement or other arrangement under which the taxpayer's obligations with respect to the interest can be changed, reduced or waived if there is a change to the Act or if there is an adverse assessment under the Act.

(10) Subsection (5) applies to fiscal periods that end after November 1994.

(11) Subsection (6) applies to fiscal periods that end after December 2, 1992, except that

(a) with respect to fiscal periods that ended after that day and before February 22, 1994, the portion of subsection 96(3) of the Act enacted by subsection (6) shall be read as follows:

(3) Where a taxpayer who was a member of a partnership during a fiscal period has, for any purpose relevant to the computation of the taxpayer's income from the partnership for the fiscal period, made or executed an election under or in respect of the application of any of subsections 13(4), (15) and (16) and 14(6), section 15.2, subsections 20(9) and 21(1) to (4), section 22, subsection 29(1), section 34, clause 37(8)(a)(ii)(B) and subsections 44(1) and (6), 50(1) and 97(2) that, but for this subsection, would be a valid election,

and

(b) before 1995, the portion of subsection 96(3) of the Act enacted by subsection (6) shall be read without reference to subsections 249.1(4) and (6) of the Act.

124. (1) The portion of subsection 97(2) of the Act before paragraph (a) is replaced by the following:

Rules where
election by
partners

(2) Notwithstanding any other provision of this Act other than subsection 13(21.2), where a taxpayer at any time disposes of any property that is a capital property, Canadian resource property, foreign resource property, eligible capital property or inventory of the taxpayer to a partnership that immediately after that time is a Canadian partnership of which the taxpayer is a member, if the taxpayer and all the other members of the partnership jointly so elect in prescribed form within the time referred to in subsection 96(4),

(2) Subsections 97(3) and (3.1) of the Act are repealed.

(3) Subject to section 247, subsections (1) and (2) apply to dispositions of property that occur after April 26, 1995.

125. (1) Paragraph 98.1(1)(a) of the Act is replaced by the following:

(a) until such time as all the taxpayer's rights (other than a right to a share of the income or loss of the partnership under an agreement referred to in subsection 96(1.1)) to receive any property of or from the partnership in satisfaction of the taxpayer's interest in the partnership immediately before the time at which the taxpayer ceased to be a member of the partnership are satisfied in full, that interest (in this section referred to as a "residual interest") is, subject to sections 70, 110.6 and 128.1 but notwithstanding any other section of this Act, deemed not to have been disposed of by the taxpayer and to continue to be an interest in the partnership;

(2) Subsection (1) applies to the 1994 and subsequent taxation years.

126. (1) Subsection 100(4) of the Act is replaced by the following:

Loss re
interest in
partnership

(4) Notwithstanding paragraph 39(1)(b), the capital loss of a taxpayer from the disposition at any time of an interest in a partnership is deemed to be the amount of the loss otherwise determined minus the total of all amounts each of which is the amount by which the taxpayer's share of the partnership's loss, in respect of a share of the capital stock of a corporation that was property of a particular partnership at that time, would have been reduced under subsection 112(3.1) if the fiscal period of every partnership that includes that time had ended immediately before that time and the particular partnership had disposed of the share immediately before the end of that fiscal period for proceeds equal to its fair market value at that time.

(2) Subsection (1) applies to dispositions that occur after April 26, 1995.

127. (1) Subparagraph 104(4)(a)(i.1) of the Act is replaced by the following:

(i.1) is a trust that was created by the will of a taxpayer who died after 1971 to which property was transferred in circumstances to which paragraph 70(5.2)(b) or (d) or (6)(d) applied and that, immediately after any such property vested indefeasibly in the trust as a consequence of the death of the taxpayer, was a trust, or

(2) Subsection 104(6) of the Act is amended by striking out the word "and" at the end of paragraph (a.1) and by adding the following after paragraph (a.1):

(a.2) where the taxable income of the trust for the year is subject to tax under this Part because of paragraph 146(4)(c) or subsection 146.3(3.1), the part of the amount that, but for this subsection, would be the income of the trust for the year that was paid in the year to a beneficiary; and

(3) Section 104 of the Act is amended by adding the following after subsection (14):

Late, amended
or revoked
election

(14.01) A trust and a preferred beneficiary under the trust may jointly make an election, or amend or revoke an election made, under subsection (14) where the election, amendment or revocation

(a) is made solely because of an election or revocation to which subsection 110.6(25), (26) or (27) applies; and

(b) is filed in prescribed manner with the Minister when the election or revocation referred to in paragraph (a) is filed.

Late, amended
or revoked
election

(14.02) Where a trust and a preferred beneficiary under the trust have made an election or amended or revoked an election in accordance with subsection (14.01),

(a) the election or the amended election, as the case may be, is deemed to have been made on time for the purpose of subsection (14); and

(b) the election that was revoked is deemed, otherwise than for the purposes of this subsection and subsection (14.01), never to have been made.

(4) Subsection 104(20) of the Act is replaced by the following:

Designation in
respect of
non-taxable
dividends

(20) The portion of the total of all amounts, each of which is the amount of a dividend (other than a taxable dividend) paid on a share of the capital stock of a corporation resident in Canada to a trust during a taxation year of the trust throughout which the trust was resident in Canada, that can reasonably be considered

(having regard to all the circumstances including the terms and conditions of the trust arrangement) to be part of an amount that became payable in the year to a particular beneficiary under the trust shall be designated by the trust in respect of the particular beneficiary in the return of the trust's income for the year for the purposes of subclause 53(2)(h)(i.1)(B)(II), paragraphs 107(1)(c) and (d) and subsections 112(3.1), (3.2), (3.31) and (4.2).

(5) Section 104 of the Act is amended by adding the following after subsection (21):

Late, amended
or revoked
designation

(21.01) A trust that has filed its return of income for its taxation year that includes February 22, 1994 may subsequently designate an amount under subsection (21), or amend or revoke a designation made under that subsection where the designation, amendment or revocation

(a) is made solely because of an increase or decrease in the net taxable capital gains of the trust for the year that results from an election or revocation to which subsection 110.6(25), (26) or (27) applies; and

(b) is filed with the Minister, with an amended return of income for the year, when the election or revocation referred to in paragraph (a) is filed with the Minister.

Late, amended
or revoked
designation

(21.02) A designation, amendment or revocation under subsection (21.01) that affects an amount determined in respect of a beneficiary under subsection (21.2) may be made only where the trust

(a) designates an amount, or amends or revokes a designation made, under subsection (21.2) in respect of the beneficiary; and

(b) files the designation, amendment or revocation referred to in paragraph (a) with the Minister when required by paragraph (21.01)(b).

Late, amended
or revoked
designation

(21.03) Where a trust designates an amount, or amends or revokes a designation, under subsection (21) or (21.2) in accordance with subsection (21.01),

(a) the designation or amended designation, as the case may be, is deemed to have been made in the trust's return of income for the trust's taxation year that includes February 22, 1994; and

(b) the designation that was revoked is deemed, other than for the purposes of this subsection and subsections (21.01) and (21.02), never to have been made.

(6) Subsection (1) applies to acquisitions and dispositions that occur after 1992.

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

(8) Subsections (3) and (5) apply to taxation years that include February 22, 1994.

(9) Subsection (4) applies after April 26, 1995.

128. (1) Subsection 107(1) of the Act is amended by striking out the word "and" at the end of paragraph (b) and by replacing paragraph (c) with the following:

(c) where the taxpayer is not a mutual fund trust, the taxpayer's loss from the disposition is deemed to be the amount, if any, by which the amount of that loss otherwise determined exceeds the amount, if any, by which

(i) the total of all amounts each of which was received or would, but for subsection 104(19), have been received by the trust on a share of the capital stock of a corporation before the disposition (and, where the trust is a unit trust, after 1987) and

(A) where the taxpayer is a corporation,

(I) was a taxable dividend designated under subsection 104(19) by the trust in respect of the taxpayer, to the extent of the amount of the dividend that was deductible under section 112 or subsection 115(1) or 138(6) in computing the taxpayer's taxable income or taxable income earned in Canada for any taxation year, or