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EXPLANATORY NOTES TO THE CHILD TAX BENEFIT LEGISLATION

The attached explanatory notes are provided to assist in an understanding of amendments to the Income Tax Act, the Family Allowances Act, the Children's Special Allowances Act, the Canada Pension Plan, the Old Age Security Act and the War Veterans Allowance Act. These notes are intended for information purposes only and should not be construed as an official interpretation of the provisions they describe.

PREFACE

The legislation to which these explanatory notes relate contains amendments to the Income Tax Act, the Canada Pension Plan, the Old Age Security Act and the War Veterans Allowance Act, and provisions repealing the Family Allowances Act, enacting the Children's Special Allowances Act and dealing with transitional measures. These amendments are designed to implement the child tax benefit proposed by the federal government in the February 25, 1992 budget.

These explanatory notes describe amendments, clause by clause, for the assistance of Members of Parliament, taxpayers and their professional advisors. While the ordering of the notes relating to the amendments to the Income Tax Act follows that of the sections of that Act that are being amended, a detailed explanation of the principal child tax benefit provisions is included in the commentary under clause 12.

The Honourable Don Mazankowski
Minister of Finance

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Clause 1

Family Allowances

ITA
56

Section 56 of the Act lists certain types of income that are required to be included in computing the income of a taxpayer for a taxation year from a source other than property, business or employment and other than from the disposition of capital properties.

Subclause 1(1)

ITA
56(5) to (7)

Subsections 56(5) to (7) of the Act deal with the taxation of family allowances. The repeal of these subsections is consequential on the introduction of the child tax benefit (see commentary under clause 12) which replaces the family allowances and other measures. This amendment applies beginning in 1993.

Subclause 1(2)

ITA
56(9)

Subsection 56(9) of the Act defines "income for the year" for the purpose of the rule that requires federal family allowance payments, social assistance payments and certain grants received by a married person or that person's spouse to be included in the income of the spouse having the higher income. This amendment, which deletes a reference to subsection (5), is strictly consequential on the repeal of that subsection and applies beginning in 1993.

Clause 2

Family Allowance Overpayment

ITA
60(p)

Section 60 of the Act provides various deductions in computing income. Repayments of overpayments of family allowances may be deducted pursuant to paragraph 60(p). This paragraph is first amended to delete a reference to subsection 56(8) of the Act as this reference was intended to apply to the former subsection 56(8) which dealt with family allowances. This amendment applies to 1990 and subsequent years to coincide with the introduction of the current subsection 56(8). The repeal of paragraph 60(p), which becomes effective in 1995, is strictly consequential on the repeal of subsections 56(5) to (7) which deal with the taxation of family allowances.

Clause 3

Child Care Expenses

ITA
63

Section 63 of the Act provides rules concerning the deductibility of child care expenses.

Subclause 3(1)

ITA
63(3)(b)(i) to (iv)

Paragraph 63(3)(b) of the Act defines "earned income" for the purposes of the child care expense deduction. A taxpayer is not allowed to deduct for a year child care expenses which, in total, exceed 2/3 of the taxpayer's earned income for that year. This definition is amended to include a disability pension received under the Canada or Quebec Pension Plan. This amended definition is also used in determining an individual's child tax benefit. It is also amended to clarify that the amounts described in paragraph 63(3)(b) are taken into account in computing a taxpayer's earned income even though these amounts, by reason of paragraph 81(1)(a), may not be required to be included in income. These amendments apply beginning in 1993.

Subclause 3(2)

ITA
63(3)(c)(ii)

Paragraph 63(3)(c) of the Act defines an "eligible child" for the purposes of the child care expense deduction. Currently, one of the criteria used in determining the eligibility of a child is whether the taxpayer has deducted an amount under section 118 in respect of the child. As part of the introduction of the child tax benefit (see commentary under clause 12), the dependent tax credit under paragraph 118(1)(d) of the Act no longer applies to children under 18 years of age. Accordingly, the definition "eligible child" is revised, beginning in 1993, so that, if all other conditions are met, a child whose income does not exceed the basic personal amount for the year will be considered an "eligible child" for the purposes of the child care expense deduction.

Clause 4

Transfers and Loans to Minors

ITA
74.1(2)

Subsection 74.1(2) of the Act provides "income attribution" rules with respect to loans and transfers of property by individuals to persons under 18 years of age. In such a case, any income or loss derived by the minor from the property while the individual is resident in Canada is included in computing the individual's income. This amendment, which applies beginning in 1993, provides that these income attribution rules do not apply in respect of income arising from child tax benefits transferred or loaned to the child in respect of whom the benefits were received.

Clause 5

Non-Resident's Taxable Income Earned in Canada

ITA
115(2)(e)(iii)

Section 115 of the Act determines the amount of a non-resident person's income which is subject to tax under Part I of the Act. This amount is referred to as the non-resident's "taxable income earned in Canada". Subparagraph 115(2)(e)(iii) requires that family allowances be included in the non-resident's taxable income earned in Canada. This subparagraph is first amended to delete a reference to subsection 56(8) of the Act as this reference was intended to apply to the former subsection 56(8) which dealt with family allowances. This amendment is made applicable to 1990 and subsequent years to coincide with the introduction of the current subsection 56(8). The repeal of subparagraph 115(2)(e)(iii), which applies beginning in 1993, is strictly consequential on the repeal of subsection 56(5) which deals with the taxation of family allowances.

Clause 6

Notch Provision

ITA
117(7)

An individual is entitled under section 118.2 of the Act to claim a tax credit for medical expenses that were paid by the individual for a dependant. Subsection 117(7) further permits an individual to claim the medical expenses of a person who, but for that person's income, would be the individual's dependant. However, in the latter case, the individual is required to add in computing tax payable 68% of that portion of the person's income that exceeds the basic personal amount. This rule, which is generally referred to as the "notch provision", is repealed as a consequence of the replacement of the dependant tax credit for children under 18 years of age by the child tax benefit (see commentary under clause 12). The notch provision is being integrated with the computation of the medical expense tax credit under section 118.2 (see commentary under clause 9). This amendment applies beginning in 1993.

Clause 7

Annual Adjustment

ITA
117.1(1)(b)

Section 117.1 of the Act provides for the annual indexing of various amounts. Paragraph 117.1(1)(b) is amended to delete references to subsections 117(7), 122.2(1) and 164.1(1) as a consequence of the repeal of the provisions dealing with the "notch provision" in subsection 117(7) and the refundable child tax credit. This amendment applies beginning in 1993.

Clause 8

Dependant Tax Credit

ITA
118(1)(d)

Section 118 of the Act includes the personal tax credits which may be claimed for an individual's dependants. Consequential on the introduction of the child tax benefit (see commentary under clause 12), the dependant tax credit under paragraph 118(1)(d) is revised to apply only where the dependant is 18 years of age or older and is mentally or physically infirm. This amendment applies beginning in 1993.

Clause 9

Medical Expenses

ITA
118.2

The medical expense tax credit is provided under section 118.2 of the Act. The amendments to this section, which apply beginning in 1993, are consequential on the repeal of the "notch provision" in subsection 117(7) of the Act. An individual will now be entitled to claim eligible medical expenses paid for a "patient" who is the individual, the individual's spouse or a dependant of the individual as defined under subsection 118(6). Under this definition, most persons related to the individual and dependent on the individual for support qualify as dependants. The medical expense credit claimable by the individual will then be reduced by 68% of the dependant's income in excess of the basic amount for the year of each dependant (other than the individual's spouse) in respect of whom the individual claims medical expenses.

Clause 10

Refundable Child Tax Credit

ITA
122.2

Section 122.2 of the Act contains the refundable child tax credit. Subclause 10(1)

"eligible child"

ITA
122.2(2)(a)

Paragraph 122.2(2)(a) of the Act generally defines an eligible child for the purposes of the refundable child tax credit payable to an individual for a year as generally being a child in respect of whom the individual is entitled to receive in January of the following year a family allowance under the Family Allowances Act. This amendment, which applies only for 1992, provides that an eligible child is one in respect of whom a family allowance is payable for December 1992, or would be payable for that month if family allowances were payable for the month in which a child is born or becomes resident in Canada.

Subclause 10(2)

Refundable Child Tax Credit

ITA
122.2

The refundable child tax credit provided under section 122.2 of the Act is repealed, beginning in 1993, as a consequence of the introduction of the child tax benefit (see commentary under clause 12) which replaces this credit and other measures.

Clause 11

Goods and Services Tax Credit

ITA
122.5(3)(f)(ii)

Section 122.5 of the Act provides the rules for determining the goods and services tax credit for individuals. Subparagraph 122.5(3)(f)(ii) contains the threshold amount beyond which the amount of the credit is reduced. This amount is expressed in terms of the threshold amount used under section 122.2 for the purposes of the refundable child tax credit as it was intended that these threshold amounts be identical. As the refundable child tax credit is to be repealed effective in 1993, this amendment is necessary to provide the threshold amount for the goods and services tax credit.

Clause 12

ITA
122.6 to 122.64

New sections 122.6 to 122.64 of the Act provide rules for determining the child tax benefit beginning January 1993. This new child tax benefit replaces family allowances, the tax credit for dependants under age 18, and the refundable child tax credit with one benefit for children under age 18. The child tax benefit is delivered in non-taxable monthly payments, which are generally made to the child's female parent. The amount of these payments is based on family earnings, income, and child care expenses of the "base taxation year" as defined in section 122.6.

An eligible individual is entitled under subsection 122.61(1) of the Act to an annual child tax benefit in respect of qualified dependants calculated as follows:

- \$1,020 for each qualified dependant;
- plus
- \$75 for the third and each subsequent dependant;
- plus
- \$213 for each dependant under age 7, the total of which is reduced by 25% of the child care expenses claimed for all qualified dependants of the eligible individual;
- plus
- an earned income supplement equal to 8% of the eligible individual's adjusted earned income (which includes earned income of a spouse) in excess of \$3,750, (not exceeding a maximum supplement of \$500). The supplement is reduced by 10% of the individual's adjusted income (which includes income of a spouse) in excess of \$20,921;

minus

- 5% (or 2½%, where the individual has only one qualified dependant) of the individual's adjusted income in excess of \$25,921.

The result is the amount of the annual child tax benefit payable, which is divided by 12 to obtain the amount of the monthly child tax benefit.

Example

The following example illustrates the calculation of the child tax benefit in January 1993 for a married couple with 3 children (3, 5 and 8 years old). In this case the eligible individual is the mother. In the base taxation year, which in this case is 1991, the mother's adjusted earned income (which includes the earnings of the father) was \$20,000, her adjusted income (which includes the income of the father) was \$24,000 and no child care expenses were claimed for the children.

Basic amount		
• 3 qualified dependants X \$1,020		\$3,060
Additional benefits		
• 3rd qualified dependant		75
• 2 children under 7 years of age (2 x \$213)		426
Working supplement		
• 8% of (\$20,000 - \$3,750) (max. \$500)	\$500	
• less 10% of (\$24,000 - \$20,921)	<u>-308</u>	<u>192</u>
<u>minus</u> 5% of excess of \$24,000 over \$25,921 =		<u>\$3,753</u>
		<u>0</u>
		<u>\$3,753</u>
Monthly payment = 1/12 of \$3,753 = \$312.75		

Section 122.6 of the Act defines a number of terms which apply for purposes of the new child tax benefit.

An individual's "adjusted earned income" for a taxation year is the total, for the year, of the earned income of the individual and of the individual's cohabiting spouse at the end of the year. For the purposes of the child benefit provisions, the term "earned income" has the same meaning as is used for the child care expense deduction (see commentary under clause 3).

An individual's "adjusted income" for a taxation year is the total, for the year, of the income of the individual and of the individual's cohabiting spouse at the end of the year.

The child tax benefit payable for a particular month is determined by reference to a preceding year called the "base taxation year". For benefits payable from January to June, the benefits are generally calculated on the basis of tax information from the second preceding year. Benefits payable from July to December are generally calculated on the basis of tax information from the immediately preceding year. For example, the child tax benefit for June 1994 will be based on 1992 tax data, while the child tax benefit for July 1994 will be based on 1993 data.

An individual's "cohabiting spouse" is the person who is the individual's spouse and who is not living separate and apart from the individual by reason of a breakdown of their marriage.

An "eligible individual" in respect of a qualified dependant is generally the person who resides with the dependant in Canada and is the dependant's principal care provider. It is presumed that the female parent of a qualified dependant is the eligible individual if she resides with the dependant.

A "qualified dependant" is a person who is under 18 years of age, but does not include a person in respect of whom either a special allowance is payable under the Children's Special Allowances Act or a married tax credit has been claimed for the base taxation year.

A "return of income" must be filed for the base taxation year in order to obtain a child tax benefit. In recognition of the fact that an individual may not have been resident in Canada throughout the base taxation year and may have not been required to file a return of income for that year, the Minister of National Revenue will accept, in lieu of a return for that year, a form containing relevant tax data for that year.

Subsection 122.61(2) provides that, where the monthly child tax benefit for two or more consecutive months is less than \$10, the benefit for those months will be paid in a lump sum rather than by monthly instalments. Subsection 122.61(3) stipulates that, where a person was not resident in Canada at any time in a year, that person's income for the year is equal to the amount that would have been the person's income for the year had the person been a Canadian resident. This subsection also provides that, for the purpose of the earned income supplement, the person's earned income for the year in such a case includes only such income that was taxable in Canada.

Subsection 122.61(4) provides that the child tax benefit cannot be assigned, attached, garnished or otherwise available to creditors. Furthermore, it cannot be discounted under the Tax Rebate Discounting Act nor retained under the Financial Administration Act.

Subsections 122.61(5) to (7) provide for the indexing and rounding of various amounts used in the calculation of the child tax benefit. The indexing of these amounts is based on annual increases in the Consumer Price Index in excess of three per cent. For this purpose annual increases are measured at the end of March of each year.

Section 122.62 of the Act deals with various situations in which a person becomes or ceases to be an eligible individual or a cohabiting spouse of such an individual.

Subsection 122.62(1) provides that, as a general rule, a person will be entitled to a child tax benefit for a particular month only if the person files with the Minister of National Health and Welfare the required notice before the end of the eleventh month following the particular month. However, subsection 122.62(2) provides that the Minister may extend the period to file the notice. Furthermore, subsection 122.62(3) provides that individuals who are entitled to receive family allowances at the end of 1992 in respect of their eligible children will not be required to file the above-mentioned notice to obtain the child tax benefit in respect of those children. Subsection 122.62(4) requires a person who ceases to be an eligible individual in respect of a qualified dependant to inform the Minister of National Health and Welfare of that fact before the end of the following month. This rule does not apply where an individual ceases to be eligible as a result of the dependant reaching 18 years of age. Subsection 122.62(5) gives to the Minister of National Health and Welfare authority to waive the requirements that a person file a notice to be considered an eligible individual in respect of a qualified dependant or inform the Minister upon ceasing to be an eligible individual in respect of such a dependant.

Where a cohabiting spouse dies, subsection 122.62(6) enables the surviving spouse to elect, within eleven months following the month of death, that the deceased person's income and earned income be ignored for the purposes of computing the child tax benefit for each subsequent month. A similar election is provided under subsection 122.62(7) in the case of marriage breakdowns. In addition, where a person becomes the cohabiting spouse of an eligible individual, subsection 122.62(8) permits them to elect to be treated as spouses from the end of the relevant base taxation year.

Subsection 122.62(9) allows the Minister of National Revenue to seek advice from the Minister of National Health and Welfare as to whether a person is a qualified dependant, an eligible individual or a cohabiting spouse.

Subsection 122.63(1) of the Act permits the Minister of Finance and the Minister of National Health and Welfare to enter into an agreement with a province to modify the basic amount (\$1,020) of the child tax benefit with respect to persons resident in that province. Subsection 122.63(2) stipulates that the basic amount may be modified by such an agreement only on the basis of the number or age (or both) of qualified dependants and that, in all cases, the modified amount may not be less than 85% of the amount that would otherwise apply. Subsection 122.63(3) provides that, where the total amounts paid to the residents of a province with which an agreement was entered into exceed by more than 1% the total of the amounts that would have been paid in the absence of such an agreement, the agreement must provide for the reimbursement of the excess by the province to the Government of Canada.

Section 122.64 of the Act deals with the confidentiality of information obtained for the purposes of the administration and enforcement of the child tax benefit provisions. Subsection 122.64(1) provides that the information obtained under the Income Tax Act or the Family Allowances Act by or on behalf of the Minister of National Health and Welfare is to be considered to have been obtained on behalf of the Minister of National Revenue for the purposes of the Income Tax Act. This means that such information is protected by the confidentiality provisions in section 241 of the Income Tax Act. Subsection 122.64(2) allows information obtained by the Minister of National Health and Welfare under the new child tax benefit provisions or the Family Allowances Act to be provided to a provincial government, solely for the administration or enforcement of a prescribed law of a province or to an official of the Department of National Health and Welfare for the purposes of the Children's Special Allowances Act, the Canada Pension Plan or the Old Age Security Act. Subsection 122.64(3) permits a taxpayer's name and address, obtained under the child tax benefit provisions, to be communicated for the purposes of Part I of the Family Orders and Agreements Enforcement Act. Subsection 122.64(4) provides that the unauthorized use or communication of information obtained under subsection 122.64(2) or (3) constitutes an offence and any person convicted thereof is liable to a fine not exceeding \$5,000, imprisonment for a term not exceeding 12 months, or both such fine and imprisonment. Subsection 122.64(5) defines the terms "official" and "authorized person" for the purposes of these rules as having the meanings assigned by subsection 241(10).

The child tax benefit provisions generally come into force as of January 1, 1993. However, since child tax benefits paid before July 1994 will be computed by reference to pre-1993 tax information, certain transitional rules are provided.

For child tax benefits payable from January to June 1993, an individual's cohabiting spouse at the end of the 1991 taxation year is considered to include a person of the opposite sex who is a parent of a child of the individual unless at that time they are living separate and apart. Furthermore, where at the beginning of such month the information processed by the Minister of National Revenue relating to the adjusted income of a person who was entitled to receive a family allowance for December 1992 is incomplete, the Minister may for such a month pay an amount not exceeding the amount that would be payable if the person's adjusted income were equal to the amount calculated at that time based on the processed information available to the Minister. For example, where an eligible recipient has not filed a 1991 tax return, this rule enables the Minister to pay a child tax benefit on the assumption that the recipient had no income for tax purposes. If, however, the recipient's cohabiting spouse had reported income for that year, that income would be taken into account in determining the recipient's entitlement to the child tax benefit. Upon receipt and verification of this information, the child tax benefits will be adjusted accordingly.

For child tax benefits payable after June 1993, as indicated in the February 25, 1992 Budget Papers, the broader definition of "spouse" will apply.

Finally, the revised version of the definition "earned income" for the purposes of the child care expense deduction (see commentary under clause 3) will become effective with the July 1993 child tax benefit payment.

Clause 13

Refund of Premiums

ITA
146(1)(h)

Section 146 of the Act deals with registered retirement savings plans (RRSPs). Paragraph 146(1)(h) defines "refund of premiums", which is relevant in determining the amount that, on the death of an annuitant under an RRSP, is included in a beneficiary's income rather than the annuitant's income.

In certain circumstances, a beneficiary is entitled to transfer a refund of premiums to an eligible annuity, an RRSP or a registered retirement income fund. If an annuitant has no spouse at the time of his or her death, each amount paid out of the RRSP to a "financially dependent" child or grandchild of the annuitant is a refund of premiums. For this purpose, it is assumed that a child or grandchild was not financially dependent if, for the year preceding that of the annuitant's death, either a dependant tax credit was claimed in respect of that child or grandchild by a person other than the annuitant or the income for that year of the child or grandchild exceeded \$5,000.

This amendment, which applies beginning in 1993, is consequential on the repeal of the non-refundable dependant tax credit for children under 18 years of age which is replaced by the new child tax benefit. Under this amendment, only children with incomes in excess of the basic personal amount for the year (\$6,456 for 1992) preceding that of the annuitant's death will be presumed not to have been financially dependent on the annuitant.

Clause 14

Returns

ITA
150

Section 150 of the Act sets out the requirements relating to the filing of tax returns. Subsection 150(1) stipulates the tax return requirements and filing dates for different categories of taxpayers. Under the existing Act, all individuals who have received a prepayment of the refundable child tax credit in a year under section 164.1 of the Act are required to file a tax return for that year. Subsection 150(1) is amended to remove this requirement consequential on the repeal of section 164.1. This amendment applies beginning in 1993.

Clause 15

Assessments

ITA
152

Section 152 of the Act deals with assessments and the determination of losses and other amounts by the Minister of National Revenue.

Subclause 15(1)

ITA
152(1)(b)

Subsection 152(1) of the Act requires the Minister of National Revenue to assess a person's income tax and to determine the amount of any refundable child tax credit to which the taxpayer is entitled under section 122.2 of the Act. This amendment, which applies beginning in 1993, removes this requirement consequential on the repeal of section 122.2 and the introduction of the child tax benefit (see commentary under clause 12).

Subclause 15(2)

ITA
152(3.2) and (3.3)

Subsection 152(3.2) allows a taxpayer to request a determination of the amount of the child tax benefit to which the taxpayer is entitled for any of the 11 preceding months. Subsection 152(3.3) requires the Minister of National Revenue to determine the taxpayer's entitlement and to send a notice of determination to the taxpayer. If the taxpayer disagrees with the Minister's determination, the taxpayer may use the objection and appeal procedures provided in the Act.

Subclause 15(3)

ITA
152(4.2)(d)

Subsection 152(4.2) of the Act gives the Minister of National Revenue discretion to make a reassessment or a redetermination beyond the normal reassessment period when so requested by a taxpayer who is an individual or a testamentary trust in order to give the taxpayer a refund, or to reduce taxes payable. This amendment to paragraph 152(4.2)(d) adds a reference to subsection 122.61(1) to enable the Minister to make a redetermination to increase an individual's child tax benefit after the expiry of the normal reassessment period. This amendment applies beginning in 1993.

Clause 16

Refund of Overpayments

ITA
160.1

Section 160.1 of the Act provides for the recovery by Revenue Canada, Taxation of an amount refunded to a taxpayer under the Act in excess of the amount to which the taxpayer was entitled. Generally, the taxpayer will also be liable to interest charges from the day the excess refund was paid to the day it is recovered by Revenue Canada, Taxation.

Subclause 16(1)

ITA
160.1(1)(b)

The amendment to paragraph 160.1(1)(b) of the Act, which applies after 1992, provides that no interest is chargeable on any excess portion of a child tax benefit paid to a taxpayer under new section 122.61 of the Act.

Subclause 16(2)

ITA
160.1(2)

Subsection 160.1(2) of the Act concerns excess refunds of the refundable child tax credit under section 122.2. The repeal of subsection 160.1(2) is consequential on the repeal of that section and becomes effective in 1993.

Subclause 16(3)

ITA
160.1(2.1) and (3)

New subsection 160.1(2.1) of the Act provides that an individual and a person who was the individual's cohabiting spouse both at the time an excess child tax benefit was paid to the individual and at the end of the base taxation year are jointly and severally liable to repay the excess refund. Subsection 160.1(3) authorizes Revenue Canada, Taxation to make an assessment to recover excess refunds. The amendment to this provision is consequential on the repeal of subsection 160.1(2). Both amendments are effective beginning in 1993.

Clause 17

False Statements or Omissions

ITA
163(2)

Subsection 163(2) of the Act imposes a penalty where a taxpayer, knowingly or in circumstances amounting to gross negligence, participates in or makes a false statement or omission in a return, form, certificate, statement or answer. Pursuant to paragraph 163(2)(b), this penalty applies where

false information has been filed which overstates the refundable child tax credit provided under section 122.2 of the Act. The repeal of paragraph 163(2)(b) is consequential on the repeal of section 122.2. New paragraph 163(2)(c) is added to provide similar rules in respect of the new child tax benefit (see commentary under clause 12). These amendments become effective in 1993.

Clause 18

Refunds

ITA
164

Section 164 of the Act relates to tax refunds.

New subsection 164(2.2) is consequential on the introduction of the child tax benefit (see commentary under clause 12) and provides that the amount of any child tax benefit payable to a taxpayer cannot be applied by Revenue Canada, Taxation against a liability of the taxpayer unless that liability arose from an excess child tax benefit previously paid to the taxpayer.

New subsection 164(2.3) provides that where an individual has, in accordance with the new child tax benefit provisions, filed a form in lieu of a return of income for a year in which the individual was not resident in Canada, the form is considered to be a return of income in respect of which the Minister of National Revenue has mailed a notice of assessment. This rule is required to enable the Minister to pay child tax benefits to eligible residents of Canada who were not resident in Canada in preceding years.

Subsection 164(3) provides for the payment of interest on tax refunds. This subsection is amended as a result of the introduction of the child tax benefit to specify that no interest is payable to a taxpayer on that portion of a taxpayer's tax refund that represents a payment of the benefit.

These amendments apply beginning in 1993.

Clause 19

Prepayment of Child Tax Credit

ITA
164.1

Section 164.1 of the Act provides for the prepayment of up to two-thirds of the refundable child tax credit to an individual provided certain conditions are met.

Subclause 19(1)

ITA
164.1(1)(c)

Paragraph 164.1(1)(c) of the Act states that, in order for an individual to receive in a year the prepayment of the refundable child tax credit in respect of an eligible child, the individual has to be the person who received the credit for the child in the preceding year. This paragraph is amended to allow the prepayment for the year in which an eligible recipient dies to be made to the surviving

spouse on the basis of that spouse's net income for the preceding year. This amendment applies only to 1992.

Subclause 19(2)

ITA
164.1

The prepayment of the refundable child tax credit, provided under section 164.1 of the Act, is repealed beginning in 1993 as a consequence of the repeal of the refundable child tax credit under section 122.2 (see commentary under clause 10).

Clause 20

Objections to Assessments

ITA
165(3.1) and (3.2)

Section 165 of the Act provides rules governing a taxpayer's right to object to an assessment or determination by the Minister of National Revenue of tax, interest, penalties and certain other amounts under the Act.

New subsections 165(3.1) and (3.2) of the Act are consequential on the introduction of the child tax benefit (see commentary under clause 12). New subsection (3.1) provides that, where the Minister receives a notice of objection to a determination that includes matters relating to eligibility criteria under the new child tax benefit provisions, the Minister must refer those matters to the Minister of National Health and Welfare who will decide the matters and inform the Minister of National Revenue of the decision. New subsection 165(3.2) provides that, once the Minister of National Revenue is informed of the decision of the Minister of National Health and Welfare, the Minister of National Revenue must vacate, confirm or vary the determination or make a redetermination, in accordance with the decision, and notify the taxpayer accordingly. These provisions apply beginning in 1993.

Clause 21

Repayment of Benefits

ITA
180.2(1)(a)

Section 180.2 of the Act provides for the recovery of family allowance and old age security benefits to the extent that a taxpayer's income for a year is in excess of a \$50,000 (indexed) threshold. Effective beginning in 1993, this provision is amended to delete references to family allowances as a consequence of the repeal of the Family Allowances Act.

Clause 22

Deemed Residents

ITA
250(1)(f)

Section 250 of the Act provides an expanded definition of a resident of Canada for purposes of the Act. Pursuant to paragraph 250(1)(f), dependent children of certain persons deemed to be resident in Canada are also deemed to be Canadian residents. The amendment to paragraph 250(1)(f) is consequential on the repeal of the provision allowing a non-refundable dependant tax credit in respect of children under 18 years of age. Accordingly, beginning in 1993, such a child will be deemed to be resident in Canada in a year if the child's income does not exceed the basic personal amount for the year.

Clauses 23 to 31

Children's Special Allowances Act, Family Allowances Act, Canada Pension Plan, Old Age Security Act and War Veterans Allowance Act.

Clauses 23 to 31 enact the Children's Special Allowances Act, repeal the Family Allowances Act, amend the Canada Pension Plan, the Old Age Security Act and the War Veterans Allowances Act and provide certain transitional measures.