Amendments to the Excise Tax Act, the Income Tax Act and Related Acts

Notice of Ways and Means Motion,
Draft Regulations and
Explanatory Notes

Tabled by
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Notice of Ways and Means Motion

Notice of Ways and Means Motion to amend the *Excise Tax Act*, the *Income Tax Act* and related Acts

That it is expedient to amend the *Excise Tax Act*, the *Income Tax Act* and related Acts as follows:

PART I

EXCISE TAX ACT

Amendments

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

"charity"
« *organisme de bienfaisance* »

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

"hospital authority"
« *administration hospitalière* »

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

"improvement"
« *améliorations* »

"improvement", in respect of property of a person, means any property or service supplied to, or goods imported by, the person for the purpose of improving the property, to the extent that the consideration paid or payable by the person for the property or service or the value of the goods is, or would be if the person were a taxpayer under the

Income Tax Act, included in determining the cost or, in the case of property that is capital property of the person, the adjusted cost base to the person of the property for the purposes of that Act;

"mobile home"
« *maison mobile* »

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

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

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

"officer"
« *cadre* »

"officer" means a person who holds an office;

"school authority"
« *administration scolaire* »

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

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

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

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

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

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

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

"university"
« *université* »

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) the service is supplied to an insurer or a group of insurers by a person who would be required to be so licensed but for the fact that the person is relieved from that requirement under the laws of a province,

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

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

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

(i) a management or administrative service, or

(ii) any other service (other than a service that is solely the issuance of a financial instrument or the transfer of ownership of a financial instrument from the supplier of the service to the corporation, partnership or trust) where the supplier is a person who provides management or administrative services to the corporation, partnership or trust,

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

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

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

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

"public college"
« *collège public* »

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

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

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

but does not include a building, or that part of a building, that is a hotel, a motel, an inn, a boarding house, a lodging house or other similar premises, or the land and appurtenances attributable to the building or part, where the building is not described in paragraph (*c*) and all or substantially all of the supplies of residential units in the building or part by way of lease, licence or similar arrangement are, or are expected to be, for periods of continuous possession or use of less than sixty days;

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

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

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

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

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

"person"
« *personne* »

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

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

"direct cost"
« *coût direct* »

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

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

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

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

"*inter vivos* trust"
« *version anglaise seulement* »

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

"office"
« *charge* »

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

(*a*) the position of trustee in bankruptcy,

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

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

"personal representative"
« *représentant personnel* »

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

"personal trust"
« *fiducie personnelle* »

"personal trust" means

(*a*) a testamentary trust, or

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

"public institution"
« *institution publique* »

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

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

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

"telecommunication service"
« *service de télécommunication* »

"telecommunication service" means

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

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

"telecommunications facility"
« *installation de télécommunication* »

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

"testamentary trust"
« *fiducie testamentaire* »

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(*a*) any supply for which consideration becomes due after ANNOUNCEMENT DATE or is paid after that day without having become due; and

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

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

(ii) the supplier charged or collected an amount as or on account of tax under that Part in respect of the supply and, before that day, the Minister of National Revenue received an application under subsection 261(1) of the Act for a rebate in respect of that amount

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

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

(*a*) any supply for which consideration becomes due after ANNOUNCEMENT DATE or is paid after that day without having become due; and

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

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

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

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

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

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

(19) Subsection (7) applies

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

(*b*) for all other purposes after 1996.

(20) Except for the purpose of determining any amount claimed (other than an amount deemed under paragraph 296(5)(*a*) of the Act to have been claimed as a result of an assessment made after ANNOUNCEMENT DATE) in a return under Division V, or in an application under Division VI, of Part IX of the Act received by the Minister of National Revenue before ANNOUNCEMENT DATE,

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

(*b*) paragraph (*f*) of the definition "residential complex" in subsection 123(1) of the Act as it read before September 30, 1992 shall, in its application to supplies made after September 14, 1992 and before September 30, 1992, be read as follows:

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

(21) Subsection (9) is deemed to have come into force on September 15, 1992 but does not apply for the purpose of determining any amount claimed (other than an amount deemed under paragraph 296(5)(*a*) of the Act to have been claimed as a result of an assessment made after ANNOUNCEMENT DATE) in a return under Division V, or in an application under Division VI, of Part IX of the Act received by the Minister of National Revenue before ANNOUNCEMENT DATE.

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

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

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

(2) Subsection (1) applies after ANNOUNCEMENT DATE.

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

Sponsorship of public sector bodies

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

(*a*) a supply of a service, or

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

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

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

(*a*) real property that is

(i) a residential complex,

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

(iii) a residential trailer park, and

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

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

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

(*a*) a business of the person;

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

Meaning of "consideration"

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

Grants and subsidies

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) Subsection (1) is deemed to have come into force on THE DAY AFTER ANNOUNCEMENT DATE.

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

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

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

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

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

(4) Subsections (1) to (3) apply to supplies made after ANNOUNCEMENT DATE.

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

Billing location

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

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

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

Place of supply of telecommunication service

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

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

(*b*) in any other case,

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

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

(2) Subsection (1) applies to supplies made after ANNOUNCEMENT DATE.

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

(2) Subsection (1) is deemed to have come into force on THE DAY AFTER ANNOUNCEMENT DATE.

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

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

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

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

(3) Subsections (1) and (2) are deemed to have come into force on ANNOUNCEMENT DATE.

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

Charity and public institution as small supplier

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

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

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

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

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

(4) Subsection (2) is deemed to have come into force on ANNOUNCEMENT DATE.

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

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

(i) 10% of the total of

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

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

(ii) the amount determined by the formula

$10,000,000 x A/365

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

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

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

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

exceeds

(iii) the amount determined by the formula

$1,000,000 x A/365

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

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

Exclusion of interest and dividend

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

Charities, municipalities, etc.

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

(*a*) at the beginning of the particular year,

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

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

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

(3) Subsections (1) and (2) apply to taxation years beginning after ANNOUNCEMENT DATE.

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

Election for exempt supplies

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

Exception

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

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

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

Used tangible personal property trade-ins

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

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

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

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

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

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

(2) Subsection (1) applies to supplies made after ANNOUNCEMENT DATE.

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

Other taxes

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

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

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

Exception

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

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

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

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

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

(iii) the supply would be included in section 1 or 5 of Part V.1 of Schedule V or in section 6, 9 or 10 of Part VI of that Schedule.

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

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

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

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

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

Pay telephones

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

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

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

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

Coin-operated devices

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

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

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

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

(3) Subsection (1) applies to any supply for which the recipient pays consideration after ANNOUNCEMENT DATE.

(4) Subsection (2) applies to supplies made after ANNOUNCEMENT DATE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Benefits to shareholders, etc.

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

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

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

Employee and shareholder benefits

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

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

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

the following rules apply:

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

(*d*) in any case, except where

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

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

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

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

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

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

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

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

individual's income, the prescribed percentage of the total consideration, and

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

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

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

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

(2) Subsection 173(3) of the Act is amended by striking out the word "and" at the end of paragraph (*b*), by adding the word "and" at the end of paragraph (*c*) and by adding the following after paragraph (*c*):

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

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

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

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

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

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

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

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

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

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

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

the following rules apply:

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

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

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

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

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

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

Employee, partner or volunteer reimbursement

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

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

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

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

A X B

where

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

B is the lesser of

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

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

Exception

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

Warrantee reimbursement

175.1 Where

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

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

the following rules apply:

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

$$A \times \frac{B}{C}$$

where

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

B is the amount of the reimbursement, and

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

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

$$A \times \frac{B}{C}$$

where

A is the tax reimbursed,

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

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

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

(*a*) it does not apply for the purpose of determining any amount claimed (other than an amount deemed under paragraph 296(5)(*a*) of the Act to have been claimed as a result of an assessment made after ANNOUNCEMENT DATE) in a return under Division V, or in an application under Division VI, of Part IX of the Act that is received by the Minister of National Revenue before ANNOUNCEMENT DATE;

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

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

(*d*) section 175.1 of the Act, as enacted by subsection (1), applies only to amounts reimbursed after ANNOUNCEMENT DATE.

25. (1) The heading before section 176 and subsections 176(1) to (3) of the Act are replaced by the following:

Used Returnable Containers

Acquisition of used returnable containers

176. (1) Subject to this Division, where

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

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

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

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

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

(ii) tax calculated on that consideration,

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

(2) Subsection 176(4) of the Act is renumbered as subsection 176(2) and subsection 176(4.1) of the Act is repealed.

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

(4) Subsections (1) and (2) apply to supplies made after ANNOUNCEMENT DATE.

(5) Subsection (3) applies after ANNOUNCEMENT DATE.

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

Supply on behalf of person not required to collect tax

177. (1) Where

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

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

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

the following rules apply:

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

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

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

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

(2) Subsection (1) applies to any supply made after ANNOUNCEMENT DATE by a registrant to a recipient on behalf of another person and to any supply made by the registrant to the other person of services relating to the supply to the recipient.

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

(2) Subsection (1) is deemed to have come into force on THE DAY AFTER ANNOUNCEMENT DATE.

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

Adjustment to direct seller's net tax

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

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

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

(3) Subsections (1) and (2) apply to deductions in respect of supplies of exclusive products made by independent sales contractors after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE.

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

Adjustment to distributor's net tax

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

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

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

(3) Subsections (1) and (2) apply to deductions in respect of supplies of exclusive products made by independent sales contractors after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE.

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

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

(2) Subsection 179(1) of the Act is amended by adding the word "and" at the end of subparagraph (*c*)(i) and by replacing the portion of that subsection after that subparagraph with the following:

(ii) where the registrant has caused physical possession of the property to be transferred

(A) to the non-resident person, or

(B) to a consignee to whom a supply of the property is made for consideration,

the fair market value of the property at that time, and

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

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

(4) Subsection (2) applies to supplies made after ANNOUNCEMENT DATE.

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

International Travel

Definitions

180.1 (1) In this section,

"international flight"
« *vol international* »

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

"international voyage"
« *voyage international* »

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

Delivery while on international travel

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

(2) Subsection (1) applies to supplies made after ANNOUNCEMENT DATE.

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

Forfeiture, extinguished debt, etc.

182. (1) For the purposes of this Part, where at any time, as a consequence of the breach, modification or termination after 1990 of an agreement for the making of a taxable supply (other than a zero-rated supply) of property or a service in Canada by a registrant to a person, an amount is paid or forfeited to the registrant otherwise than as consideration for the supply, or a debt or other obligation of the registrant is reduced or extinguished without payment on account of the debt or obligation,

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

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

Transitional

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

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

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

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

Idem

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

(2) Subsection (1) is deemed to have come into force on THE DAY AFTER ANNOUNCEMENT DATE.

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

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

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

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

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

(*a*) the creditor is deemed

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

(ii) except where

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

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

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

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

Sale of personal property

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

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

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

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

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

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

Debt security, etc.

(10) For the purposes of this Part, where

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

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

Redemption of property

(10.1) For the purposes of this Part, where

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

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

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

the following rules apply:

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

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

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

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

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

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

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

(10) Subsections (2) and (3) apply after ANNOUNCEMENT DATE.

(11) Subsections (4) to (6) apply to property that is supplied by a creditor after ANNOUNCEMENT DATE.

(12) Subsection (7) applies to

(*a*) any supply made after ANNOUNCEMENT DATE; and

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

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

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

(13) Subsection (8) applies to redemptions of property occurring after ANNOUNCEMENT DATE.

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

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

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

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

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

(*a*) the insurer is deemed

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

(ii) except where

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

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

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

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

Sale of personal property

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

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

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

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

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

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

(8) Subsections (2) and (3) apply after ANNOUNCEMENT DATE.

(9) Subsections (4) to (6) apply to property that is supplied by an insurer after ANNOUNCEMENT DATE.

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

Financial services – input tax credits

185. (1) Where tax in respect of property or a service acquired or imported by a registrant who is engaged in commercial activities becomes payable by the registrant at a time when the registrant is neither a listed financial institution nor a person who is a financial institution because of paragraph 149(1)(*b*), for the purpose of determining an input tax credit of the registrant in respect of the property or service and for the purposes of Subdivision d, to the extent (determined in accordance with subsection 141.01(2)) that the property or service was acquired or imported for consumption, use or supply in the course of making supplies of financial services that relate to commercial activities of the registrant,

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

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

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

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

(2) Subsection (1) applies to property and services acquired or imported in taxation years of registrants beginning after ANNOUNCEMENT DATE.

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

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

(2) Subsection (1) applies after ANNOUNCEMENT DATE.

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

Exception for communal organizations

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

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

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

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

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

Definitions

191.1 (1) In this section,

"government funding"
« *financement public* »

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

(*a*) a grantor, or

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

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

"grantor"
« *subventionnaire* »

"grantor" means

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

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

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

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

Subsidized residential complexes

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

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

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

(i) seniors,

(ii) youths,

(iii) students,

(iv) individuals with a disability,

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

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

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

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

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

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

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

(*e*) the total of all amounts each of which is an input tax credit or a rebate under section 257 that the builder was entitled to claim in respect of

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

(ii) an improvement to that real property,

to the extent that the input tax credit or rebate can reasonably be regarded as being attributable to the complex or addition.

(2) Subsection (1) applies after ANNOUNCEMENT DATE but does not apply to a residential complex or an addition thereto where

(*a*) the construction or substantial renovation of the complex or addition, as the case may be, began on or before that day and is substantially completed before THE DAY THAT IS TWO YEARS AFTER THAT DAY; and

(*b*) the builder

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

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

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

Redemption of real property

(3) Where

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

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

the following rules apply:

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

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

(2) Subsection (1) is deemed to have come into force on THE DAY AFTER ANNOUNCEMENT DATE.

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

Use in supply of financial services

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

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

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

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

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

(2) Subsection (1) applies in taxation years of registrants beginning after ANNOUNCEMENT DATE.

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

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

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

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

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

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

(4) Subsections (1) to (3) apply to rebates in respect of amounts paid as tax after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE.

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

Meaning of "imported taxable supply"

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

(2) The portion of paragraph 217(*b*) of the French version of the Act before subparagraph (i) is replaced by the following:

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

(3) The portion of paragraph 217(*b*.1) of the French version of the Act before subparagraph (i) is replaced by the following:

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

(4) The portion of paragraph 217(*c*) of the French version of the Act before subparagraph (i) is replaced by the following:

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

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

(6) Subsections (1) to (5) come into force or are deemed to have come into force on January 1, 1997.

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

Filing of returns and payment of tax

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

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

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

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

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

Idem

(3) An amount shall not be included in the total for B in the formula set out in subsection (1) for a particular reporting period of a person to the extent that

(*a*) that amount was claimed or included as an input tax credit or deduction in determining the net tax for a preceding reporting period of the person; or

(*b*) before the end of the particular period, that amount became refundable to the person under this or any other Act of Parliament or was remitted to the person under the *Financial Administration Act* or the *Customs Tariff.*

Limitation

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

(a) where the person is

(i) a listed financial institution during the particular reporting period, or

(ii) a person, other than a charity, whose threshold amounts, determined in accordance with subsection 249(1), for the fiscal year of the person that includes the particular reporting period, and the previous fiscal year, exceed $6 million,

within two years after the beginning of the particular reporting period; and

(*b*) in any other case, within four years after the end of the particular reporting period.

(2) Subsection 225(3) of the Act, as enacted by subsection (1), is deemed to have come into force on ANNOUNCEMENT DATE.

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

(*a*) input tax credits for reporting periods ending after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE, and

(*b*) input tax credits for reporting periods ending on or before the last day of that month, other than input tax credits that are claimed in a return under Division V of Part IX of the Act filed on or before the day that is two years after the last day of that month,

except that, in applying the said subsection 225(4) in relation to input tax credits claimed in a return under Division V of Part IX of the Act filed before 1997, the reference to "charity" shall be read as a reference to "charity (other than a school authority, a public college, a university, a hospital authority or a local authority determined under paragraph (*b*) of the definition "municipality" in subsection 123(1) to be a municipality)".

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

Meaning of "specified supply"

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

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

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

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

Net tax

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

A - B

where

A is the total of

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

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

(i) supplies by way of sale of capital property or real property, and

(ii) supplies to which subsection 172(2) or 173(1) applies,

made by the charity,

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

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

B is the total of

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

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

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

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

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

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

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

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

Restriction

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

Idem

(4) An amount shall not be included in determining a total under the description of B in subsection (2) for a particular reporting period of a charity to the extent that

(*a*) that amount was claimed or included as an input tax credit or deduction in determining the net tax for a preceding reporting period of the charity; or

(*b*) before the end of the particular reporting period, that amount became refundable to the charity under this or any other Act of Parliament or was remitted to the charity under the *Financial Administration Act* or the *Customs Tariff*.

Application

(5) Subsections 225(4) to (6) apply for the purposes of determining the net tax of a charity in accordance with subsection (2).

Idem

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

Election

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

Form and content of election

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

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

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

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

(*d*) be filed

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

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

Revocation

(9) An election under subsection (7) by a charity may be revoked, effective on the first day of a reporting period of the charity, provided that that day is not earlier than one year after the election became effective and a notice of revocation of the election in prescribed form containing prescribed information is filed in prescribed manner with the Minister on or before the day on or before which the return under this Division is required to be filed for the last reporting period of the charity in which the election is in effect.

Restriction on input tax credits

(10) Where an election under subsection (7) by a charity becomes effective on a day, an input tax credit of the charity for a reporting period (in this subsection referred to as the "earlier reporting period") ending before that day shall not be claimed by the charity in a return for a reporting period ending after that day unless the charity was entitled to include the input tax credit in determining its net tax for the earlier reporting period.

Streamlined input tax credit calculation

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

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

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

Election for streamlined accounting

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

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

Idem

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

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

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

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

Self-assessment on acquisition of real property

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

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

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

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

Set-off of refunds or rebates

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

Refunds and rebates of another person

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

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

(4) Subsection (2) is deemed to have come into force on ANNOUNCEMENT DATE.

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

Refund of payment

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

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

Restriction

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

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

Interest on refund

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

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

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

and ending on the day the refund is paid.

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

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

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

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

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

Bad debts

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

$$A \times \frac{B}{C}$$

where

A is the tax payable in respect of the supply,

B is the total of the consideration, tax and any amount that can reasonably be attributed to a tax imposed under an Act of the legislature of a province that is a prescribed tax for the purposes of section 154 (referred to in this section as "applicable provincial tax") remaining unpaid in respect of the supply that was written off as a bad debt, and

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

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

Idem

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

Recovery of bad debt

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

$$A \times \frac{B}{C}$$

where

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

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

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

Limitation

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

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

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

(*b*) in relation to amounts written off as bad debts on or before THE LAST DAY OF THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE, the reference in subsection 231(4) of the Act, as enacted by subsection (1), to "two years" shall be read as a reference to "four years".

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

Refund or adjustment of tax

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

particular person from the other person, the particular person may, within two years after the day the amount was so charged or collected,

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

Adjustment

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

(3) Subsection (1) applies

(*a*) to amounts charged or collected as tax under Division II of Part IX of the Act after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE; and

(*b*) to amounts charged or collected as tax under that Division on or before the last day of that month, other than amounts that are adjusted, refunded or credited on or before the day that is two years after the last day of that month in accordance with subsection 232(1) of the Act as it read on the last day of that month.

(4) Subsection (2) applies to reductions in consideration after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE.

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

Deduction for rebate

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

(2) Subsection (1) applies after ANNOUNCEMENT DATE.

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

Exception

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

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

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

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

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

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

(A) services to be performed in Canada, or

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

(I) real property situated in Canada,

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

(III) services to be performed in Canada;

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

Security

(6) Every person who

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

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

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

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

Failure to comply

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

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

exceeds

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

and the amount so retained is deemed

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

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

(3) Subsection (1) applies after ANNOUNCEMENT DATE.

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

Reporting period of non-registrant

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

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

Reporting period of registrant

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

(3) Subparagraph 245(2)(*a*)(ii) of the Act is replaced by the following:

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

(4) Paragraph 245(2)(*a*) of the English version of the Act, as amended by subsection (3), is amended by striking out the word "or" at the end of subparagraph (i).

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

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

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

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

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

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

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

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

(9) Subsection (1) applies to fiscal years beginning after ANNOUNCEMENT DATE.

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

(11) Subsections (4) to (8) apply to fiscal years beginning after 1996.

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

Election for fiscal quarters

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

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

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

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

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

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

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

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

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

Election for fiscal years

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

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

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

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

(3) Subsection (1) applies to fiscal years beginning after March 1994 except that in respect of fiscal years beginning before 1997, subsection 248(1) of the Act, as enacted by subsection (1), shall be read without reference to "that is a charity on the first day of a fiscal year of the registrant or".

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

58. (1) Paragraph 252(1)(*a*) of the Act is repealed and paragraphs 252(1)(*b*) to (*d*) are renumbered as 252(1)(*a*) to (*c*) respectively.

(2) Subsection (1) applies to property acquired after ANNOUNCEMENT DATE.

59. (1) Subsection 252.1(1) of the Act is replaced by the following:

Meaning of "tour package"

252.1 (1) In this section and section 252.2, "tour package" has the meaning assigned by subsection 163(3), but does not include a tour package that includes a convention facility or related convention supplies.

(2) Subsection 252.1(2) of the Act is replaced by the following:

Accommodation rebate to non-resident persons

(2) Where

(*a*) a non-resident person is the recipient of a supply made by a registrant of short-term accommodation or a tour package that includes short-term accommodation,

(*b*) the accommodation or tour package is acquired by the person otherwise than for supply in the ordinary course of a business of the person of making such supplies, and

(*c*) the accommodation is made available to a non-resident individual,

the Minister shall, subject to subsection (8) and section 252.2, pay a rebate to the person equal to the tax paid by the person in respect of the accommodation.

(3) Paragraph 252.1(3)(*d*) of the Act is replaced by the following:

(*d*) the accommodation is made available to a non-resident individual,

(4) The portion of subsection 252.1(4) of the Act before the formula is replaced by the following:

Tax paid in respect of accommodation

(4) For the purposes of subsection (2), where, in an application filed by a person for rebates under that subsection in respect of one or more supplies of short-term accommodation in respect of which tax was paid by the person and that is neither acquired by the person for use in the course of a business of the person nor included in a tour package, the person elects to have any of those rebates determined in accordance with the formula set out in this subsection, the amount of tax paid in respect of each of those supplies of short-term accommodation is deemed to be equal to the amount determined by the formula

(5) The description of A in subsection 252.1(4) of the French version of the Act is replaced by the following:

A représente le nombre de nuits pour lesquelles le logement est mis à la disposition d'un particulier aux termes de la convention portant sur la fourniture.

(6) The description of A in paragraph 252.1(5)(*a*) of the French version of the Act is replaced by the following:

A représente le nombre de nuits pour lesquelles le logement provisoire compris dans le voyage a été mis à la disposition d'un particulier aux termes de la convention portant sur la fourniture;

(7) The description of B in paragraph 252.1(5)(*b*) of the French version of the Act is replaced by the following:

B représente le nombre de nuits pour lesquelles le logement provisoire compris dans le voyage a été mis à la disposition d'un particulier aux termes de la convention portant sur la fourniture,

(8) The description of C in paragraph 252.1(5)(*b*) of the Act is replaced by the following:

C is the number of nights the non-resident individual to whom the accommodation is made available spends in Canada during the period commencing on the earlier of the first day on which overnight lodging included in the tour package is made available to the individual and the first day any overnight transportation service included in the tour package is rendered to the individual and ending on the later of the last day such lodging is made available to the individual and the last day any such transportation service is rendered to the individual, and

(9) Subsections 252.1(6) and (7) of the Act are replaced by the following:

Multiple supplies of accommodation for the same night

(6) For the purpose of determining, in accordance with the formula set out in subsection (4), the amount of a rebate payable under subsection (2) to a consumer of short-term accommodation, where a registrant makes a particular supply to the consumer of short-term accommodation that is made available to the consumer for any night, any other supply by the registrant to the consumer of short-term accommodation that is made available to the consumer for the same night is deemed not to be a supply separate from the particular supply.

Idem

(7) For the purpose of determining, in accordance with the formula set out in paragraph (5)(*a*), the amount of a rebate payable under subsection (2) to a consumer of a tour package that includes short-term accommodation, where a registrant makes a supply to the consumer of a particular tour package that includes short-term accommodation that is made available to the consumer for any night, any other short-term accommodation that is included in another tour package supplied by the registrant to the consumer and made available to the consumer for the same night is deemed to be included in the particular tour package and not in any other tour package.

(10) Paragraph 252.1(8)(*a*) of the Act is replaced by the following:

(*a*) a registrant makes a supply of short-term accommodation or a tour package that includes short-term accommodation to a non-resident recipient who either is an individual or is acquiring the accommodation or tour package for use in the course of a business of the recipient or for supply in the ordinary course of a business of the recipient of making such supplies,

(11) Clause 252.1(8)(*d*)(ii)(A) of the French version of the Act is replaced by the following:

(A) par l'acquéreur à l'inscrit au moins quatorze jours avant le premier jour où un logement provisoire compris dans le voyage est mis à la disposition d'un particulier aux termes de la convention portant sur la fourniture du voyage,

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

(13) Subsections (2) to (11) apply to any rebate under section 252.1 of the Act for which an application is received by the Minister of National Revenue after ANNOUNCEMENT DATE.

60. (1) Paragraph 252.2(*e*) of the Act is replaced by the following:

(*d*.1) in the case of a rebate under subsection 252(1), each receipt that substantiates that rebate includes tax, totalling at least $3.50, in respect of supplies that are otherwise eligible for a rebate under that subsection;

(*e*) the total of all rebates for which the application is made is at least $14;

(2) Paragraph 252.2(*g*) of the Act is replaced by the following:

(*g*) the total of all rebates for which the application is made that are in respect of short-term accommodation included in tour packages and that are determined in accordance with the formula set out in paragraph 252.1(5)(*a*) does not exceed

(i) where the person is a consumer of the tour packages, $75; and

(ii) in any other case, $75 for each individual to whom the accommodation is made available.

(3) Subsection (1) applies to any rebate under section 252.1 of the Act for which an application is received by the Minister of National Revenue after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE.

(4) Subsection (2) applies to any rebate under section 252.1 of the Act for which an application is received by the Minister of National Revenue after ANNOUNCEMENT DATE.

61. (1) The Act is amended by adding the following after section 252.4:

Non-resident rebate respecting installation services

252.41 (1) Where tangible personal property is supplied on an installed basis by a non-resident supplier who is not registered under Subdivision *d* of Division V to a particular person who is so registered and the supplier or another non-resident person who is not so registered is the recipient of a taxable supply in Canada of a service of installing, in real property located in Canada, the tangible personal property so that it can be used by the particular person,

(*a*) the Minister shall, on the application of the non-resident recipient of the service filed within one year after the completion of the service, pay a rebate to the non-resident recipient equal to the tax paid by the non-resident recipient in respect of the supply of the service to the non-resident recipient; and

(*b*) the particular person is deemed, for the purposes of this Part, to have received from the non-resident supplier of the tangible personal property a taxable supply of the service that is separate from and not incidental to the supply of the property and is for consideration equal to that part of the total consideration paid or payable by the particular person for the property and the installation of the property that can reasonably be attributed to the installation.

Application to supplier

(2) Where a non-resident person submits to a supplier an application for a rebate under subsection (1) to which the non-resident person would be entitled in respect of a supply made by the supplier to the non-resident person if the non-resident person had paid the tax in respect

of the supply and had applied for the rebate in accordance with that subsection, the supplier may pay to, or credit in favour of, the non-resident person the amount of the rebate in which event the supplier shall transmit the application to the Minister with the supplier's return filed under Division V for the reporting period in which the rebate is paid or credited and interest under subsection 297(4) is not payable in respect of the rebate.

Joint and several liability

(3) Where, under subsection (2), a supplier pays to, or credits in favour of, a person an amount on account of a rebate and the supplier knows or ought to know that the person is not entitled to the rebate or that the amount paid or credited exceeds the rebate to which the person is entitled, the supplier and the person are jointly and severally liable to pay to the Receiver General under section 264 the amount that was paid or credited on account of the rebate or the excess amount, as the case may be.

(2) Subsection (1) applies to supplies of services made after ANNOUNCEMENT DATE.

62. (1) Paragraphs 253(1)(*a*) and (*b*) of the Act are replaced by the following:

(*a*) a musical instrument, motor vehicle, aircraft or any other property or a service is or would, but for subsection 272.1(1), be regarded as having been acquired or imported by an individual who is

(i) a member of a partnership that is a registrant, or

(ii) an employee of a registrant (other than a financial institution),

(*a*.1) in the case of an individual who is a member of a partnership, the acquisition or importation is not on the account of the partnership,

(*b*) the individual has paid the tax payable in respect of the acquisition or importation, and

(2) The formula in subsection 253(1) of the Act is replaced by the following:

A X (B - C)

(3) Subsection 253(1) of the Act is amended by striking out the word "and" at the end of the description of A, by adding the word "and" at the end of the description of B and by adding the following after that description:

C is the total of all amounts that the individual received or is entitled to receive from the individual's employer or the partnership, as the case may be, as a reimbursement in respect of the amount that was so deducted.

(4) Subsections (1) to (3) are deemed to have come into force on December 17, 1990 but do not apply for the purpose of determining any rebate under section 253 of the Act that was claimed in an application received by the Minister of National Revenue before ANNOUNCEMENT DATE (other than an application deemed under paragraph 296(5)(*a*) of the Act to have been filed as a result of an assessment made after that day).

63. (1) Subsection 254(3) of the Act is replaced by the following:

Application for rebate

(3) A rebate shall not be paid in respect of a residential complex or residential condominium unit under subsection (2) to an individual unless the individual has filed an application for the rebate within two years after the day ownership of the complex or unit was transferred to the individual.

(2) Paragraph 254(4)(*c*) of the Act is replaced by the following:

(*c*) the individual, within two years after the day ownership of the complex or unit was transferred to the individual under the agreement for the supply, submits to the builder in prescribed manner an application in prescribed form containing prescribed information for the rebate to which the individual would be entitled under subsection (2) in respect of the complex or unit if the individual applied therefor within the time allowed for such an application,

(3) Subsections (1) and (2) apply to any rebate in respect of a residential complex ownership of which is transferred after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE to the applicant for the rebate.

64. (1) The definition "long term lease" in subsection 254.1(1) of the Act is replaced by the following:

"long-term lease"
« *bail de longue durée* »

"long-term lease", in respect of land, means a lease under which continuous possession of the land is provided for a period of at least twenty years or a lease that contains an option to purchase the land;

(2) The portion of paragraph 254.1(2)(*a*) of the Act before subparagraph (ii) is replaced by the following:

(*a*) under an agreement entered into between a particular individual and a builder of a residential complex that is a single unit residential complex or a residential condominium unit, the builder makes an exempt supply to the particular individual

(i) by way of a long-term lease of, or by way of an assignment of a long-term lease of, the land attributable to the complex, and

(3) Section 254.1 of the Act is amended by adding the following after subsection (2):

Exception

(2.1) A rebate under subsection (2) shall not be paid in respect of a residential complex where the builder of the complex is not required, because of an Act of Parliament (other than this Act) or any other law, to pay or remit the tax that the builder is deemed to have paid and collected under subsection 191(1) in respect of a supply of the complex deemed to have been made under that subsection.

(4) Subsection 254.1(3) of the Act is replaced by the following:

Application for rebate

(3) A rebate shall not be paid in respect of a residential complex under subsection (2) to an individual unless the individual has filed an application for the rebate within two years after the day possession of the complex was transferred to the individual.

(5) Paragraph 254.1(4)(*b*) of the Act is replaced by the following:

(*b*) the individual, within two years after the day possession of the complex is transferred to the individual under the agreement for the supply, submits to the builder in prescribed manner an application in prescribed form containing prescribed information for the rebate to which the individual would be entitled under subsection (2) in respect of the complex if the individual applied for it within the time allowed for such an application, and

(6) Subsection (1) is deemed to have come into force on September 15, 1992 but does not apply for the purpose of determining any amount claimed (other than an amount deemed under paragraph 296(5)(*a*) of the Act to have been claimed as a result of an assessment made after ANNOUNCEMENT DATE) in a return under Division V, or in an application under Division VI, of Part IX of the Act received by the Minister of National Revenue before ANNOUNCEMENT DATE.

(7) Subsection (2) applies to any rebate for which an application is filed with the Minister of National Revenue on or after ANNOUNCEMENT DATE.

(8) Subsection (3) is deemed to have come into force on December 17, 1990 but does not apply to a rebate for which an application (other than an application deemed under paragraph 296(5)(*a*) of the Act to have been filed as a result of an assessment made after ANNOUNCEMENT DATE) was received by the Minister of National Revenue before ANNOUNCEMENT DATE.

(9) Subsections (4) and (5) apply to any rebate in respect of a residential complex possession of which is transferred after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE to the applicant for the rebate.

65. (1) Subsection 255(3) of the Act is replaced by the following:

Application for rebate

(3) A rebate shall not be paid in respect of a share of the capital stock of a cooperative housing corporation under subsection (2) to an individual unless the individual files an application for the rebate within two years after the day ownership of the share was transferred to the individual.

(2) Subsection (1) applies to any rebate in respect of a share of the capital stock of a cooperative housing corporation ownership of which is transferred after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE to the applicant for the rebate.

66. (1) Paragraph 256(2)(*a*) of the Act is replaced by the following:

(*a*) a particular individual constructs or substantially renovates, or engages another person to construct or substantially renovate for the particular individual, a residential complex that is a single unit residential complex or a residential condominium unit for use as the primary place of residence of the particular individual or a relation of the particular individual,

(2) Section 256 of the Act is amended by adding the following after subsection (2):

Homes occupied before substantial completion

(2.01) Where an individual acquires an improvement in respect of a residential complex that the individual is constructing or substantially renovating and tax in respect of the improvement becomes payable by the individual more than two years after the day the complex is first occupied as described in subparagraph (2)(*d*)(i), that tax shall not be included under paragraph (2)(*c*) in determining the total tax paid by the individual.

(3) The portion of subsection 256(3) of the Act before paragraph (*b*) is replaced by the following:

Application for rebate

(3) A rebate shall not be paid under subsection (2) in respect of a residential complex to an individual unless the individual files an application for the rebate within two years after the earliest of

(*a*) the day that is two years after the day the complex is first occupied as described in subparagraph (2)(*d*)(i);

(*a*.1) the day ownership is transferred as described in subparagraph (2)(*d*)(ii); and

(4) Subsections (1) to (3) apply to any rebate in respect of a residential complex for which an application is filed with the Minister of National Revenue on or after ANNOUNCEMENT DATE except where

(*a*) the residential complex was, at any time after the construction or substantial renovation thereof began and before that day, occupied as a place of residence or lodging;

(*b*) the construction or substantial renovation of the residential complex was substantially completed before that day; or

(*c*) the applicant, before that day, transferred ownership of the residential complex to a recipient of a supply by way of sale of the complex.

67. (1) Subsection 256.1(2) of the Act is replaced by the following:

Application for rebate

(2) A rebate shall not be paid under subsection (1) to an owner or lessee of land in respect of a supply of the land made to a person who will be deemed under any of subsections 190(3) to (5) and section 191 to have made on a particular day another supply of the property that includes the land, unless the owner or lessee, as the case may be, files an application for the rebate on or before the day that is two years after the particular day.

(2) Subsection (1) applies to any rebate in respect of land that is deemed to have been supplied, after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE, under any of subsections 190(3) to (5) and section 191 of the Act.

68. (1) Subsection 257(2) of the Act is replaced by the following:

Application for rebate

(2) A rebate shall not be paid under subsection (1) to a person in respect of the supply by way of sale of real property by the person unless the person files an application for the rebate within two years

after the day the consideration for the supply became due or was paid without having become due.

Redemption of real property

(3) Where

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

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

the following rules apply:

(*c*) the debtor is not entitled to claim a rebate under subsection (1) with respect to the property unless the time limit for redeeming the property has expired and the debtor has not redeemed the property, and

(*d*) where the debtor is entitled to claim the rebate, consideration for the supply is deemed, for the purposes of subsection (2), to have become due on the day on which the time limit for redeeming the property expires.

(2) Subsection 257(2) of the Act, as enacted by subsection (1), applies to any rebate in respect of a supply of real property for which all of the consideration becomes due after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE or is paid after that month without having become due.

(3) Subsection 257(3) of the Act, as enacted by subsection (1), is deemed to have come into force on THE DAY AFTER ANNOUNCEMENT DATE.

69. (1) Paragraph (*b*) of the definition "claim period" in subsection 259(1) of the Act is replaced by the following:

(*b*) in any other case, the period that includes that time and consists of either

(i) the first and second fiscal quarters in a fiscal year of the person, or

(ii) the third and fourth fiscal quarters in a fiscal year of the person;

(2) Subparagraph (*a*)(ii) of the definition "non-creditable tax charged" in subsection 259(1) of the Act is replaced by the following:

(ii) tax deemed under subsection 129(6), 129.1(4), 171(3) or 183(4), section 191 or subsection 200(2) or 211(2) or (4) to have been collected during the period by the person in respect of the property or service,

(ii.1) where the person is not a charity to which subsection 225.1(2) applies, tax deemed under subsection 183(5) or (6) to have been collected during the period by the person in respect of the property or service,

(3) Paragraph (*d*) of the definition "selected public service body" in subsection 259(1) of the Act is replaced by the following:

(*d*) a public college that is established and operated otherwise than for profit, or

(4) Subsection 259(3) of the Act is replaced by the following:

Rebate for persons other than designated municipalities

(3) Where a person (other than a listed financial institution, a registrant prescribed for the purposes of subsection 188(5) and a person designated to be a municipality for the purposes of this section) is, on the last day of a claim period of the person or of the person's fiscal year that includes that claim period, a selected public service body, charity or qualifying non-profit organization, the Minister shall, subject to subsections (4.1) and (5), pay a rebate to the person equal to the prescribed percentage of the non-creditable tax charged in respect of property or a service (other than a prescribed property or service) for the claim period.

(5) The portion of subsection 259(4) of the Act before the formula is replaced by the following:

Rebate for designated municipalities

(4) Where a person is, on the last day of a claim period of the person or of the person's fiscal year that includes that claim period, designated to be a municipality for the purposes of this section in respect of activities (in this subsection referred to as "designated activities") specified in the designation, the Minister shall, subject to subsections (4.1) and (5), pay a rebate to the person in respect of property or a service (other than a prescribed property or service) equal to the amount determined by the formula

(6) Section 259 of the Act is amended by adding the following after subsection (4):

Apportionment of rebate

(4.1) Where a person is

(*a*) a charity, a public institution or a qualifying non-profit organization, and

(*b*) a selected public service body,

the rebate, if any, payable to the person under subsection (3) or (4) in respect of the non-creditable tax charged in respect of property or a service for a claim period is equal to the total of

(*c*) 50% of the non-creditable tax charged, and

(*d*) the amount determined by the formula

$$A \times (B\text{-}50\%) \times C$$

where

A is the non-creditable tax charged,

B is the prescribed percentage applicable to a selected public service body described in whichever of paragraphs (*a*) to (*e*) of the definition of that term in subsection (1) applies to the person, and

C is the percentage that would be determined for B in the formula set out in subsection (4) if that subsection applied to the person and if, in the case of a person who is not designated to be a municipality for the purposes of this section, the references to "designated activities" in paragraphs (*a*) to (*c*) of the description of B were read

(i) in the case of a person determined to be a municipality under paragraph (*b*) of the definition "municipality" in subsection 123(1), as references to activities engaged in by the person in the course of fulfilling the person's responsibilities as a local authority, and

(ii) in any other case, as references to activities engaged in by the person in the course of operating a recognized degree granting institution, a college affiliated with, or research body of, such an institution, a public hospital, an elementary or secondary school or a post-secondary college or technical institute, as the case may be.

(7) Subsections 259(12) to (15) of the Act are replaced by the following:

Prescribed method

(12) A prescribed person may determine the rebates payable to the person under this section in accordance with prescribed rules.

(8) Subsection (1) applies for the purpose of determining claim periods of a person in fiscal years of the person beginning after 1996.

(9) Subsection (2) applies to tax deemed to have been collected by a registrant during reporting periods of the registrant beginning after 1996.

(10) Subsections (3) and (7) apply for the purpose of determining rebates under section 259 of the Act, as amended by subsections (1) and (2) and (4) to (6), in respect of non-creditable tax charged for claim periods beginning after ANNOUNCEMENT DATE.

(11) Subsections (4) to (6) apply,

(*a*) in the case of a person who is designated by the Minister of National Revenue to be a municipality for the purposes of section 259 of the Act, to claim periods ending after 1990, and

(*b*) in any other case, to any rebate the application for which is received by the Minister of National Revenue after ANNOUNCEMENT DATE or was deemed under paragraph 296(5)(*a*) of the Act to have been filed as a result of an assessment made after that day,

except that, in relation to claim periods ending before 1997, paragraph 259(4.1)(*a*) of the Act, as enacted by subsection (6), shall be read without reference to ", a public institution".

70. (1) Section 260 of the Act is replaced by the following:

Exports by a charity or a public institution

260. (1) Where a person that is a charity or a public institution

(*a*) has paid tax in respect of a supply of property or a service received by the person,

(*b*) has not claimed and is not entitled to claim an input tax credit in respect of the property or service, and

(*c*) has exported the property or service,

subject to subsection (2), the Minister shall pay a rebate to the person equal to the amount of tax paid in respect of the supply.

Application for rebate

(2) A rebate shall not be paid under subsection (1) to a person in respect of a supply unless the person files an application for the rebate within four years after the end of the fiscal year of the person in which tax in respect of the supply became payable.

(2) Subsection (1) applies to supplies in respect of which tax becomes payable after ANNOUNCEMENT DATE or is paid after that day without having become due except that, with respect to supplies made before 1997, subsection 260(1) of the Act, as enacted by subsection (1), shall be read without reference to "or a public institution".

71. (1) Subsection 261(3) of the Act is replaced by the following:

Application for rebate

(3) A rebate in respect of an amount shall not be paid under subsection (1) to a person unless the person files an application for the rebate within two years after the day the amount was paid or remitted by the person.

(2) Subsection (1) applies

(*a*) to amounts that, after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE, are paid as or on account of, or are taken into account as, tax or other amount payable or remittable under Part IX of the Act; and

(*b*) to amounts that, on or before the last day of that month, were paid as or on account of, or were taken into account as, tax or other amount payable or remittable under that Part, other than amounts that are claimed in an application under section 261 of the Act filed on or before the day that is two years after the last day of that month.

72. (1) Paragraph 265(1)(*a*) of the Act is replaced by the following:

(*a*) the trustee in bankruptcy is deemed to supply a service to the bankrupt of acting as trustee in bankruptcy and any amount to which the trustee is entitled for acting in that capacity is deemed to be consideration payable for that supply, but in every other respect, the trustee in bankruptcy is deemed to be the agent of the bankrupt and any supply made or received and any act performed by the trustee in the administration of the estate of the bankrupt or in the carrying on of any business of the bankrupt is deemed to have been made, received or performed, as the case may be, by the trustee as agent of the bankrupt;

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

73. (1) Sections 267 to 269 of the Act are replaced by the following:

Estate of a deceased individual

267. Subject to sections 267.1, 269 and 270, where an individual dies, this Part applies as though the estate of the individual were the individual and the individual had not died, except that

(*a*) the reporting period of the individual during which the individual died ends on the day the individual died; and

(*b*) a reporting period of the estate begins on the day after the individual died and ends on the day the reporting period of the individual would have ended if the individual had not died.

Definitions

267.1 (1) In this section and sections 268 to 270,

"trust"
« *fiducie* »

"trust" includes the estate of a deceased individual;

"trustee"
« *fiduciaire* »

"trustee" includes the personal representative of a deceased individual, but does not include a receiver (within the meaning assigned by subsection 266(1)).

Trustee's liability

(2) Subject to subsection (3), each trustee of a trust is liable to satisfy every obligation imposed on the trust under this Part, whether the obligation was imposed during or before the period during which the trustee acts as trustee of the trust, but the satisfaction of an obligation of a trust by one of the trustees of the trust discharges the liability of all other trustees of the trust to satisfy that obligation.

Joint and several liability

(3) A trustee of a trust is jointly and severally liable with the trust and each of the other trustees, if any, for the payment or remittance of all amounts that become payable or remittable by the trust under this Part before or during the period during which the trustee acts as trustee of the trust except that

(*a*) the trustee is liable for the payment or remittance of amounts that became payable or remittable before the period only to the extent of the property and money of the trust under the control of the trustee; or

(*b*) the payment or remittance by the trust or the trustee of an amount in respect of the liability discharges the joint liability to the extent of that amount.

Waiver

(4) The Minister may, in writing, waive the requirement for the personal representative of a deceased individual to file a return for a reporting period of the individual ending on or before the day the individual died.

Activities of a trustee

(5) For the purposes of this Part, where a person acts as trustee of a trust,

(*a*) anything done by the person in the person's capacity as trustee of the trust is deemed to have been done by the trust and not by the person; and

(*b*) notwithstanding paragraph (*a*), where the person is not an officer of the trust, the person is deemed to supply a service to the trust of acting as a trustee of the trust and any amount to which the person is entitled for acting in that capacity that is included in computing, for the purposes of the *Income Tax Act*, the person's income or, where the person is an individual, the person's income from a business, is deemed to be consideration for that supply.

***Inter vivos* trust**

268. For the purposes of this Part, where a person settles property on an *inter vivos* trust,

(*a*) the person is deemed to have made and the trust is deemed to have received a supply by way of sale of the property; and

(*b*) the supply is deemed to have been made for consideration equal to the amount determined under the *Income Tax Act* to be the proceeds of disposition of the property.

Distribution by trust

269. For the purposes of this Part, where a trustee of a trust distributes property of the trust to one or more persons, the distribution of the property is deemed to be a supply of the property made by the trust for consideration equal to the amount determined under the *Income Tax Act* to be the proceeds of disposition of the property.

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

(*a*) paragraphs 267(*a*) and (*b*) of the Act, as enacted by subsection (1), do not apply to reporting periods of an individual or the individual's estate where the individual died on or before ANNOUNCEMENT DATE; and

(*b*) in applying section 269 of the Act, as enacted by subsection (1), to distributions made on or before ANNOUNCEMENT DATE, the reference in that section to "one or more persons" shall be read as a reference to "beneficiaries of the trust".

74. (1) Paragraph (*b*) of the definition "representative" in subsection 270(1) of the Act is replaced by the following:

(*b*) a trustee of a trust that is a registrant.

(2) Subsection (1) is deemed to have come into force on THE DAY AFTER ANNOUNCEMENT DATE and any reference in section 270 of the Act as it read at any time on or before ANNOUNCEMENT DATE to an executor shall be read as a reference to a personal representative.

75. (1) The heading "Amalgamation, winding-up and joint ventures" before section 271 of the Act is replaced by the following:

Amalgamation and winding-up

(2) Subsection (1) is deemed to have come into force on THE DAY AFTER ANNOUNCEMENT DATE.

76. (1) The Act is amended by adding the following after section 272:

Subdivision b.1
Partnerships and joint ventures

Partnerships

272.1 (1) For the purposes of this Part, anything done by a person as a member of a partnership is deemed to have been done by the partnership in the course of the partnership's activities and not to have been done by the person.

Acquisitions by member

(2) Notwithstanding subsection (1), where property or a service is acquired or imported by a member of a partnership for consumption, use or supply in the course of activities of the partnership but not on the account of the partnership, the following rules apply:

(*a*) the partnership is deemed not to have acquired or imported the property or service except as otherwise provided in subsection 175(1);

(*b*) where the member is not an individual, for the purpose of determining an input tax credit or rebate of the member in respect of the property or service and, in the case of property that is acquired or imported for use as capital property of the member, applying Subdivision d of Division II in relation to the property, subsection (1) does not apply to deem the member not to have acquired or imported the property or service and the member is deemed to be engaged in those activities of the partnership; and

(*c*) where the member is not an individual and the partnership at any time pays an amount to the member as a reimbursement and is entitled to claim an input tax credit in respect of the property or service in circumstances in which subsection 175(1) applies, any input tax credit

in respect of the property or service that the member would, but for this paragraph, be entitled to claim in a return of the member that is filed with the Minister after that time shall be reduced by the amount of the input tax credit that the partnership is entitled to claim.

Supply to partnership

(3) Where a person who is or agrees to become a member of a partnership supplies property or a service to the partnership otherwise than in the course of the partnership's activities

(*a*) where the property or service is acquired by the partnership for consumption, use or supply exclusively in the course of commercial activities of the partnership, any amount that the partnership agrees to pay to or credit the person in respect of the property or service is deemed to be consideration for the supply that becomes due at the time the amount is paid or credited; and

(*b*) in any other case, the supply is deemed to have been made for consideration that becomes due at the time the supply is made equal to the fair market value at that time of the property or service acquired by the partnership determined as if the person were not a member of the partnership and were dealing at arm's length with the partnership.

Deemed supply to partner

(4) Where a partnership disposes of property of the partnership

(*a*) to a person who, at the time the disposition is agreed to or otherwise arranged, is or has agreed to become a member of the partnership, or

(*b*) to a person as a consequence of that person ceasing to be a member of the partnership,

the following rules apply:

(*c*) the partnership is deemed to have made to the person, and the person is deemed to have received from the partnership, a supply of the property for consideration that becomes due at the time the property is disposed of equal to the total fair market value of the property (including the fair market value of the person's interest in the property) immediately before the time the property is disposed of, and

(*d*) subsection 172(2) does not apply in respect of the supply.

Joint and several liability

(5) A partnership and each member or former member (each of which is referred to in this subsection as the "member") of the partnership (other than a member who is a limited partner and is not a general partner) are jointly and severally liable for

(*a*) the payment or remittance of all amounts that become payable or remittable by the partnership under this Part before or during the period during which the member is a member of the partnership or, where the member was a member of the partnership at the time the partnership was dissolved, after the dissolution of the partnership, except that

(i) the member is liable for the payment or remittance of amounts that become payable or remittable before the period only to the extent of the property and money that is regarded as property or money of the partnership under the relevant laws of general application in force in a province relating to partnerships, and

(ii) the payment or remittance by the partnership or by any member thereof of an amount in respect of the liability discharges the joint liability to the extent of that amount; and

(*b*) all other obligations under this Part that arose before or during that period for which the partnership is liable or, where the member was a member of the partnership at the time the partnership was dissolved, the obligations that arose upon or as a consequence of the dissolution.

Continuation of partnership

(6) Where a partnership would, but for this subsection, be regarded as having ceased to exist, the partnership is deemed for the purposes of this Part not to have ceased to exist until the registration of the partnership is cancelled.

Continuation of predecessor partnership by new partnership

(7) Where

(*a*) a partnership (in this subsection referred to as the "predecessor partnership") would, but for this section, be regarded as having ceased at any time to exist,

(*b*) a majority of the members of the predecessor partnership that together had, at or immediately before that time, more than a 50% interest in the capital of the predecessor partnership become members of another partnership of which they comprise more than half of the members, and

(*c*) the members of the predecessor partnership who become members of the other partnership transfer to the other partnership all or substantially all of the property distributed to them in settlement of their capital interests in the predecessor partnership,

except where the other partnership is registered or applies for registration under section 240, the other partnership is deemed to be a continuation of and the same person as the predecessor partnership.

(2) Subsection (1) is deemed to have come into force on THE DAY AFTER ANNOUNCEMENT DATE except that

(*a*) subsection 272.1(2) of the Act, as enacted by subsection (1), also applies for the purpose of determining an input tax credit for a reporting period beginning on or before ANNOUNCEMENT DATE claimed in a return that is received by the Minister of National Revenue on or after that day or deemed under paragraph 296(5)(*a*) of the Act to have been claimed as a result of an assessment made on or after that day;

(*b*) where a supply or disposition referred to in subsection 272.1(3) or (4) of the Act, as enacted by subsection (1), was made by a registrant to another person on or before ANNOUNCEMENT DATE and the amount charged or collected as or on account of tax under Part IX of the Act in respect of the supply or disposition exceeds the amount of tax under that Part that was payable in respect of the supply or disposition,

(i) where the Minister of National Revenue receives, on or after ANNOUNCEMENT DATE, an application under subsection 261(1) of the Act for a rebate of the excess (other than an application deemed under paragraph 296(5)(*a*) of the Act to have been filed as a result of an assessment made on or after that day), subsections 272.1(3) and (4) of the Act, as enacted by subsection (1), apply to the supply or disposition for the purpose of determining the amount of the rebate if any, and

(ii) in any other case (except where the Minister of National Revenue received, before ANNOUNCEMENT DATE, an application under subsection 261(1) of the Act for a rebate of the excess), the amount charged or collected as or on account of tax under Part IX of the Act in respect of the supply or disposition is deemed to be the amount of tax under that Part that was payable in respect of the supply or disposition; and

(*c*) subsection 272.1(5) of the Act, as enacted by subsection (1), applies to amounts that become payable or remittable after ANNOUNCEMENT DATE and to all other amounts and obligations outstanding after that day.

77. (1) Section 279 of the Act is replaced by the following:

Meaning of "electronic filing"

278.1 (1) For the purposes of this section, "electronic filing" means using electronic media in a manner specified in writing by the Minister.

Application for electronic filing

(2) A person who is required to file with the Minister returns under this Part and who meets the criteria specified in writing by the Minister may file with the Minister in prescribed manner an application, in prescribed form containing prescribed information, for authorization to file the returns by way of electronic filing.

Authorization

(3) Where the Minister receives an application of a person under subsection (2) and is satisfied that the person meets the criteria referred to in that subsection, the Minister may, in writing, authorize the person

to file returns by way of electronic filing, subject to such conditions as the Minister may at any time impose.

Revocation

(4) The Minister may revoke an authorization granted to a person under subsection (3) where

(*a*) the person, in writing, requests the Minister to revoke the authorization,

(*b*) the person fails to comply with any condition imposed in respect of the authorization or any provision of this Part,

(*c*) the Minister is no longer satisfied that the criteria referred to in subsection (2) are met, or

(*d*) the Minister considers that the authorization is no longer required,

and shall notify the person in writing of the revocation and its effective date.

Deemed filing

(5) For the purposes of this Part, where a person files a return by way of electronic filing, it is deemed to be a return in prescribed form filed with the Minister on the day the Minister acknowledges acceptance of it.

Execution of documents

279. A return (other than a return filed by way of electronic filing under section 278.1), certificate or other document made by a person (other than an individual) under this Part or under a regulation made under this Part shall be signed on behalf of the person by an individual duly authorized to do so by the person or the governing body of the person and, where the person is a corporation or an association or organization that has duly elected or appointed officers, the president, vice-president, secretary and treasurer thereof, or other equivalent officers, are deemed to be so duly authorized.

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

78. (1) Paragraph 296(1)(*e*) of the Act is replaced by the following:

(*e*) any amount which a person is liable to pay or remit under Subdivision a or b.1 of Division VII,

(2) Subsections 296(2) to (5) of the Act are replaced by the following:

Allowance of unclaimed credit

(2) Where, in assessing the net tax of a person for a particular reporting period of the person, the Minister determines that

(*a*) an amount (in this subsection referred to as the "allowable credit") would have been allowed, as an input tax credit for the particular reporting period or as a deduction in determining the net tax for the particular reporting period, if it had been claimed in a return under Division V filed on the day that is the day on or before which the return for the particular reporting period was required to be filed,

(*b*) the allowable credit was not claimed by the person in a return filed before the day notice of the assessment is sent to the person, and

(*c*) the allowable credit would be allowed, as an input tax credit or deduction in determining the net tax for a reporting period of the person, if it were claimed in a return under Division V filed on the day the notice of assessment is sent to the person or would be disallowed if it were claimed in that return only because the period for claiming the allowable credit expired before that day,

the Minister may take the allowable credit into account in assessing the net tax for the particular reporting period as if the person had claimed the allowable credit in a return filed for the period.

Allowance of unclaimed rebate

(2.1) Where, in assessing the net tax of a person for a reporting period of the person that the person was required to remit under this Part on or before a particular day or any other amount that became payable by a person under this Part on a particular day, the Minister determines that

(*a*) an amount (in this subsection referred to as the "allowable rebate") would have been payable to the person as a rebate if it had been claimed in an application under this Part filed on the particular day,

(*b*) the allowable rebate was not claimed by the person in an application filed before the day notice of the assessment is sent to the person, and

(*c*) the allowable rebate would be payable to the person, if it were claimed in an application under this Part filed on the day the notice of assessment is sent to the person or would be disallowed if it were claimed in that application only because the period for claiming the allowable rebate expired before that day,

the Minister may apply all or part of the allowable rebate against that net tax or other amount as if the person had, on the particular day, paid or remitted the amount so applied on account of that net tax or other amount.

Application or payment of excess credit or rebate

(3) Where, in assessing the net tax of a person for a particular reporting period of the person that the person was required to remit under this Part on or before a particular day or any other amount that became payable by a person under this Part on a particular day, the Minister determines that

(*a*) there is an overpayment of net tax for the particular period, or

(*b*) all or part of a rebate that the Minister is authorized to apply under subsection (2.1) against that net tax or other amount was not applied under that subsection,

except where the assessment is made in the circumstances described in paragraph 298(4)(a) or (b) after the time otherwise limited therefor by paragraph 298(1)(a), the Minister may

(*c*) apply

(i) all or part of the amount referred to in paragraph (*a*) or (*b*)

against

(ii) any amount (in this paragraph referred to as the "outstanding amount") that, on or before the particular day, the person defaulted in paying or remitting under this Part and that remains unpaid or unremitted on the day notice of the assessment is sent to the person,

as if the person had, on the particular day, paid or remitted the amount so applied on account of the outstanding amount,

(*d*) apply

(i) all or part of the amount referred to in paragraph (*a*) or (*b*) that was not applied under paragraph (*c*) together with interest thereon at the prescribed rate, computed for the period beginning on the day that is twenty-one days after the later of

(A) the particular day,

(B) the day on which the return for the particular reporting period was filed, and

(C) in the case of an overpayment of net tax for the particular period that is attributable to a payment or remittance made on a day subsequent to the days referred to in clauses (A) and (B), that subsequent day,

and ending on the day on which the person defaulted in paying or remitting the outstanding amount referred to in subparagraph (ii)

against

(ii) any amount (in subparagraph (i) referred to as the "outstanding amount") that, on a day (in this paragraph referred to as the "later day") after the particular day, the person defaulted in paying or remitting under this Part and that remains unpaid or unremitted on the day notice of the assessment is sent to the person,

as if the person had, on the later day, paid the amount and interest so applied on account of the outstanding amount, and

(*e*) refund to the person that part of the amount referred to in paragraph (*a*) or (*b*) that was not applied under paragraphs (*c*) and (*d*) together with interest thereon at the prescribed rate, computed for the period beginning on the day that is twenty-one days after the later of

(i) the particular day,

(ii) the day on which the return for the particular reporting period was filed, and

(iii) in the case of an overpayment of net tax for the particular period that is attributable to a payment or remittance made on a day subsequent to the days referred to in subparagraphs (i) and (ii), that subsequent day,

and ending on the day the refund is paid to the person.

Limitation on applying overpayments

(3.1) Where, in assessing the net tax of a person for a particular reporting period of the person under this section, the Minister determines that there is an overpayment of net tax for the particular period, the overpayment and interest thereon under paragraphs (3)(*d*) and (*e*)

(*a*) may not be applied under paragraph (3)(*d*) against an amount (in this paragraph referred to as the "outstanding amount") that is payable or remittable by the person unless an input tax credit for the particular reporting period would have been allowed as an input tax credit in determining the net tax for another reporting period of the person if the person had claimed the input tax credit in a return under Division V filed on the day the person defaulted in paying or remitting the outstanding amount; and

(*b*) may not be refunded under paragraph (3)(*e*) unless

(i) an input tax credit for the particular reporting period would have been allowed as an input tax credit in determining the net tax for another reporting period of the person if the person had claimed the input tax credit in a return under Division V filed on the day notice of the assessment is sent to the person, and

(ii) the person has filed all returns under Division V that the person was required to file with the Minister before the day notice of the assessment is sent to the person.

Limitation on applying allowable rebates

(3.2) Where, in assessing the net tax of a person for a reporting period of the person or any other amount that became payable by a person under this Part, the Minister determines that all or part of an allowable rebate referred to in subsection (2.1) was not applied under that subsection against that net tax or other amount, the rebate or unapplied part thereof, as the case may be, and interest thereon under paragraphs (3)(*d*) and (*e*)

(*a*) may not be applied under paragraph (3)(*d*) against an amount (in this paragraph referred to as the "outstanding amount") that is payable or remittable by the person unless the allowable rebate would have been payable to the person as a rebate if the person had claimed it in an application under this Part filed on the day the person defaulted in paying or remitting the outstanding amount; and

(*b*) may not be refunded under paragraph (3)(*e*) unless

(i) the allowable rebate would have been payable to the person as a rebate if the person had claimed it in an application under this Part filed on the day notice of the assessment is sent to the person, and

(ii) the person has filed all returns under Division V that the person was required to file with the Minister before the day notice of the assessment is sent to the person.

Exception

(4) Subsection (3.1) does not apply to an overpayment of net tax for a reporting period of a particular person to the extent that the overpayment is attributable to an input tax credit for the period in respect of property or a service acquired or imported by the particular person where

(*a*) the supplier of the property or service failed to charge tax to the particular person in respect of the supply of the property or service to the particular person, the Minister has assessed the supplier in respect of the tax collectible in respect of the supply, the supplier has paid the assessment and the particular person has paid that tax to the supplier, or

(*b*) the input tax credit was claimed by another person in a return under Division V filed at a particular time by the other person, the other person was not entitled to claim the input tax credit, the Minister has assessed the other person to disallow the input tax credit, the other person has paid the assessment, the particular person has paid the tax payable in respect of the supply or importation of the property or service and the Minister would have allowed the input tax credit if it had been claimed by the particular person in a return under Division V filed by the particular person at the particular time,

except that interest on the overpayment shall not be paid or applied under subsection (3) where the Minister has waived or cancelled any penalty or interest payable by the supplier in relation to that tax collectible, or by the other person in respect of the assessment of that input tax credit claimed by the other person, as the case may be.

Deemed claim or application

(5) Where, in assessing the net tax of a person or tax payable by a person, the Minister takes an amount into account under subsection (2) or applies or refunds an amount under subsection (2.1) or (3),

(*a*) the person is deemed to have claimed the amount in a return or application filed under this Part; and

(*b*) to the extent that an amount is applied against any tax or other amount payable or remittable by the person under this Part, the Minister is deemed to have refunded or paid the amount to the person and the person is deemed to have paid or remitted the tax or other amount against which it was applied.

(3) Subsection (2) comes into force or is deemed to have come into force on THE FIRST DAY OF THE THIRD CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE.

79. Paragraph 298(1)(*f*) of the Act is replaced by the following:

(*f*) in the case of an assessment of an amount for which a person became liable under section 266, subsection 270(4) or Subdivision b.1 of Division VII, more than four years after the person became liable; and

80. Section 299 of the Act is amended by adding the following after subsection (3):

Binding effect where unincorporated body

(3.1) Where a person (referred to in this subsection as the "body") that is not an individual or a corporation is assessed in respect of any matter,

(*a*) the assessment is not invalid only because one or more other persons (each of which is referred to in this subsection as a "representative") who are liable for obligations of the body did not receive a notice of the assessment;

(*b*) the assessment is binding on each representative of the body, subject to a reassessment of the body and the rights of the body to object to or appeal from the assessment under this Part; and

(*c*) an assessment of a representative in respect of the same matter is binding on the representative subject only to a reassessment of the representative and the rights of the representative to object to or appeal from the assessment of the representative under this Part on the grounds that the representative is not a person who is liable to pay or remit an amount to which the assessment of the body relates, the body has been reassessed in respect of that matter or the assessment of the body in respect of that matter has been vacated.

81. Subsection 300(2) of the Act is replaced by the following:

Scope of notice

(2) A notice of assessment may include assessments in respect of any number or combination of reporting periods, transactions, rebates or amounts payable or remittable under this Part.

82. (1) Section 301 of the Act is amended by adding the following before subsection (1) and by renumbering subsection (1) as subsection (1.1):

Meaning of "specified person"

301. (1) For the purposes of this section, a person is a "specified person" in respect of an assessment or a notice of objection to the assessment where

(*a*) the assessment was issued in respect of

(i) net tax for a reporting period of the person that includes a particular time,

(ii) an amount, other than net tax, that became payable or remittable by the person at a particular time, or

(iii) a rebate of an amount paid or remitted by the person at a particular time; and

(*b*) either

(i) the person was a listed financial institution at the particular time, or

(ii) the person was not a charity at the particular time and the person's threshold amounts, determined in accordance with subsection 249(1), for the fiscal year of the person that includes the particular time, and the previous fiscal year, exceed $6 million.

(2) Section 301 of the Act is amended by adding the following after subsection (1.1) as renumbered by subsection (1):

Issue to be decided

(1.2) Where a person objects to an assessment in respect of which the person is a specified person, the notice of objection shall

(*a*) reasonably describe each issue to be decided;

(*b*) specify in respect of each issue the relief sought, expressed as the change in any amount that is relevant for the purposes of the assessment; and

(*c*) provide the facts and reasons relied on by the person in respect of each issue.

Late compliance

(1.3) Notwithstanding subsection (1.2), where a notice of objection filed by a person to whom that subsection applies does not include the information required by paragraph (1.2)(*b*) or (*c*) in respect of an issue to be decided that is described in the notice, the Minister may in writing request the person to provide the information, and those paragraphs shall

be deemed to be complied with in respect of the issue if, within 60 days after the request is made, the person submits the information in writing to the Minister.

Limitation on objections

(1.4) Notwithstanding subsection (1.1), where a person has filed a notice of objection to an assessment (in this subsection referred to as the "earlier assessment") in respect of which the person is a specified person and the Minister makes a particular assessment under subsection (3) pursuant to the notice of objection, except where the earlier assessment was made under subsection 274(8) or in accordance with an order of a court vacating, varying or restoring an assessment or referring an assessment back to the Minister for reconsideration and reassessment, the person may object to the particular assessment in respect of an issue

(*a*) only if the person complied with subsection (1.2) in the notice with respect to that issue; and

(*b*) only with respect to the relief sought in respect of that issue as specified by the person in the notice.

Application of subsection (1.4)

(1.5) Where a person has filed a notice of objection to an assessment (in this subsection referred to as the "earlier assessment") and the Minister makes a particular assessment under subsection (3) pursuant to the notice of objection, subsection (1.4) does not limit the right of the person to object to the particular assessment in respect of an issue that was part of the particular assessment and not part of the earlier assessment.

Limitation on objections

(1.6) Notwithstanding subsection (1.1), no objection may be made by a person in respect of an issue for which the right of objection has been waived in writing by the person.

(3) Subsections 301(1) to (1.5) of the Act, as enacted by subsections (1) and (2), apply to any assessment notice of which is issued after THE CALENDAR MONTH THAT INCLUDES ANNOUNCEMENT DATE (other than an assessment the notice of

which is issued after that month under subsection 301(3) of the Act pursuant to a notice of objection to an assessment issued on or before the last day of that month) except that, in their application to notices of assessment issued before 1997, the reference to "charity" in subparagraph 301(1)(*b*)(ii) of the Act, as enacted by subsection (1), shall be read as a reference to "charity (other than a school authority, a public college, a university, a hospital authority or a local authority determined under paragraph (*b*) of the definition "municipality" in subsection 123(1) to be a municipality)".

(4) Subsection 301(1.6) of the Act, as enacted by subsection (1), applies after ANNOUNCEMENT DATE to waivers signed at any time.

83. (1) The Act is amended by adding the following after section 306:

Limitation on appeals to the Tax Court

306.1. (1) Notwithstanding sections 302 and 306, where a person has filed a notice of objection to an assessment in respect of which the person is a specified person (within the meaning assigned by subsection 301(1)), the person may appeal to the Tax Court to have the assessment vacated, or a reassessment made, only with respect to

(a) an issue in respect of which the person has complied with subsection 301(1.2) in the notice, or

(b) an issue described in subsection 301(1.5) where the person was not required to file a notice of objection to the assessment that gave rise to the issue

and, in the case of an issue described in paragraph *(a)*, the person may so appeal only with respect to the relief sought in respect of the issue as specified by the person in the notice.

Idem

(2) Notwithstanding sections 302 and 306, a person may not appeal to the Tax Court to have an assessment vacated or varied in respect of an issue for which the right of objection or appeal has been waived in writing by the person.

(2) Subsection 306.1(1) of the Act, as enacted by subsection (1), applies to any appeal, instituted after the day this Act is assented to, in respect of an assessment notice of which is issued after THE CALENDAR MONTH THAT INCLUDES ANNOUNCEMENT DATE (other than an assessment the notice of which is issued after that month under subsection 301(3) of the Act pursuant to a notice of objection to an assessment issued on or before the last day of that month).

(3) Subsection 306.1(2) of the Act, as enacted by subsection (1), applies after the day this Act is assented to waivers signed at any time.

84. (1) Section 335 of the Act is amended by adding the following after subsection (12):

Idem

(12.1) For the purposes of this Part, a document presented by the Minister purporting to be a print-out of the information in respect of a person received under section 278.1 by the Minister shall be received as evidence and, in the absence of evidence to the contrary, is proof of the return filed by the person under that section.

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

85. (1) Section 1 of Part I of Schedule V to the Act is repealed.

(2) Subsection (1) is deemed to have come into force on THE DAY AFTER ANNOUNCEMENT DATE.

86. (1) Paragraph 6(*a*) of Part I of Schedule V to the Act is replaced by the following:

(*a*) of a residential complex or a residential unit in a residential complex by way of lease, licence or similar arrangement for the purpose of its occupancy as a place of residence or lodging by an individual, where the period throughout which continuous occupancy of the complex or unit is given to the same individual is at least one month; or

(2) Subsection (1) applies to supplies made after September 14, 1992 but does not apply for the purpose of determining any amount claimed (other than an amount deemed under paragraph 296(5)(*a*) of the Act to have been claimed as a

result of an assessment made after ANNOUNCEMENT DATE) in a return under Division V, or in an application under Division VI, of Part IX of the Act received by the Minister of National Revenue before ANNOUNCEMENT DATE.

87. (1) Paragraph 6.1(*b*) of Part I of Schedule V to the Act is replaced by the following:

(*b*) a building, or that part of a building, that forms part of a residential complex or that consists solely of residential units, or

(2) Subsection (1) is deemed to have come into force on January 1, 1993.

88. (1) The portion of paragraph 7(*a*) of Part I of Schedule V to the Act before subparagraph (i) is replaced by the following:

(*a*) of land (other than a site in a residential trailer park), by way of lease, licence or similar arrangement under which continuous possession or use of the land is provided for a period of at least one month, made to

(2) The portion of paragraphs 7(*b*) of Part I of Schedule V to the Act before subparagraph (i) is replaced by the following:

(*b*) of a site in a residential trailer park, by way of lease, licence or similar arrangement under which continuous possession or use of the site is provided for a period of at least one month, made to the owner, lessee or person in occupation or possession of

(3) Subsections (1) and (2) apply to supplies made after September 14, 1992 but do not apply for the purpose of determining any amount claimed (other than an amount deemed under paragraph 296(5)(*a*) of the Act to have been claimed as a result of an assessment made after ANNOUNCEMENT DATE) in a return under Division V, or in an application under Division VI, of Part IX of the Act received by the Minister of National Revenue before ANNOUNCEMENT DATE.

89. (1) The portion of section 8.1 of Part I of Schedule V to the Act before paragraph (*a*) is replaced by the following:

8.1 A supply of a parking space by way of lease, licence or similar arrangement under which any such space is made available throughout a period of at least one month

(2) Subsection (1) applies to supplies made after September 14, 1992 but does not apply for the purpose of determining any amount claimed (other than an amount deemed under paragraph 296(5)(*a*) of the Act to have been claimed as a result of an assessment made after ANNOUNCEMENT DATE) in a return under Division V, or in an application under Division VI, of Part IX of the Act received by the Minister of National Revenue before ANNOUNCEMENT DATE.

90. (1) Section 9 of Part I of Schedule V to the Act is replaced by the following:

9. (1) In this section, "settlor", in relation to a testamentary trust that arose as a consequence of the death of an individual, means that individual.

(2) A supply of real property made by way of sale by an individual or a personal trust, other than

(*a*) a supply of real property that is, immediately before the time ownership or possession of the property is transferred to the recipient of the supply under the agreement for the supply, capital property used primarily in a business carried on by the individual or trust with a reasonable expectation of profit;

(*b*) a supply of real property made

(i) in the course of a business of the individual or trust, or

(ii) where the individual or trust has filed an election with the Minister in prescribed form and manner and containing prescribed information, in the course of an adventure or concern in the nature of trade of the individual or trust;

(*c*) a supply of a part of a parcel of land, which parcel the individual, trust or settlor of the trust subdivided or severed into parts, except where

(i) the parcel was subdivided or severed into two parts and the individual, trust or settlor did not subdivide or sever that parcel from another parcel of land, or

(ii) the recipient of the supply is an individual who is related to, or is a former spouse of, the individual or settlor and is acquiring the part for the personal use and enjoyment of the recipient

but, for the purposes of this paragraph, a part of a parcel of land that the individual, trust or settlor supplies to a person who has the right to acquire it by expropriation, and the remainder of that parcel, are deemed not to have been subdivided or severed from each other by the individual, trust or settlor, as the case may be;

(*d*) a supply deemed under section 206 or 207 of the Act to have been made; or

(*e*) a supply of a residential complex.

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

(*a*) in respect of supplies for which the supplier, on or before ANNOUNCEMENT DATE, charged or collected an amount as or on account of tax under Part IX of the Act,

(i) that subsection does not apply, and

(ii) for the purposes of section 9 of Part I of Schedule V to the Act, section 267 of the Act, as enacted by subsection 73(1), does not apply; and

(*b*) paragraph 9(2)(*c*) of Part I of Schedule V to the Act, as enacted by subsection (1), does not apply to supplies of real property made on or before ANNOUNCEMENT DATE.

91. (1) Part I of Schedule V to the Act is amended by adding the following after section 13.2:

13.3 A supply of the right to use a washing machine or clothes-dryer that is located in a common area of a residential complex.

(2) Subsection (1) applies to supplies made after ANNOUNCEMENT DATE.

92. (1) Paragraph (*b*) of the definition "health care facility" in section 1 of Part II of Schedule V to the Act is replaced by the following:

(*b*) a hospital or institution primarily for individuals with a mental health disability, or

(2) The definition "practitioner" in section 1 of Part II of Schedule V to the Act is replaced by the following:

"practitioner" means a person who practises the profession of optometry, chiropractic, physiotherapy, chiropody, podiatry, audiology, occupational therapy, psychology or dietetics.

(3) Subsection (2) comes into force or is deemed to have come into force on January 1, 1997 except that, in relation to supplies made on or after that day and before 1998, the definition "practitioner" in section 1 of Part II of Schedule V to the Act, as enacted by subsection (2), shall be read as follows:

"practitioner" means a person who practises the profession of optometry, chiropractic, physiotherapy, chiropody, podiatry, osteopathy, audiology, speech-therapy, occupational therapy, psychology or dietetics.

93. (1) Section 4 of Part II of Schedule V to the Act is replaced by the following:

4. A supply of an ambulance service made by a person who carries on the business of supplying ambulance services, but not including an air ambulance service included in section 15 of Part VII of Schedule VI.

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

94. (1) Paragraphs (*f*) and (*h*) of section 7 of Part II of Schedule V to the Act are repealed and paragraphs (*g*), (*i*) and (*j*) of that section are renumbered as paragraphs 7(*f*), (*g*) and (*h*) respectively.

(2) Subsection (1) applies to supplies made after 1997.

95. (1) Part II of Schedule V to the Act is amended by adding the following after section 7:

7.1 A supply of a dietetic service made by a practitioner of the service where the service is rendered to an individual or the supply is made to a public sector body or to the operator of a health care facility.

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

96. (1) Section 12 of Part II of Schedule V to the Act is repealed.

(2) Subsection (1) applies to supplies made after 1997.

97. (1) The definition "vocational school" in section 1 of Part III of Schedule V to the Act is replaced by the following:

"vocational school" means an organization that is established and operated primarily to provide students with correspondence courses, or instruction in courses, that develop or enhance students' occupational skills.

(2) Subsection (1) applies in relation to supplies made after 1996.

98. (1) Section 3 of Part III of Schedule V to the Act is replaced by the following:

3. A supply of food or beverages (other than food or beverages prescribed for the purposes of section 12 and food or beverages supplied through a vending machine), services or admissions made by a school authority primarily to elementary or secondary school students during the course of extra-curricular activities organized under the authority and responsibility of the school authority.

(2) Subsection (1) applies to supplies made after ANNOUNCEMENT DATE.

99. (1) Paragraph 8(*c*) of Part III of Schedule V to the Act is replaced by the following:

(*c*) the supplier is a non-profit organization or a public institution.

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

100. (1) Section 13 of Part III of Schedule V to the Act is replaced by the following:

13. A supply of a meal to a student enrolled at a university or public college where the meal is provided under a plan that is for a period of not less than one month and under which the student purchases from the supplier for a single consideration only the right to receive at a restaurant or cafeteria at the university or college not less than 10 meals weekly throughout the period.

(2) Subsection (1) applies to supplies for which all of the consideration becomes due after June 1996 or is paid after June 1996 without having become due.

101. Section 2 of Part IV of Schedule V to the Act is replaced by the following:

2. A supply of a service of providing care, supervision and a place of residence to children, underprivileged individuals or individuals with a disability in an establishment operated by the supplier for the purpose of providing such service.

102. (1) Schedule V to the Act is amended by adding the following after Part V:

PART V.1

SUPPLIES BY CHARITIES

1. A supply made by a charity of any property or service, but not including a supply of

(*a*) property or a service included in Schedule VI;

(*b*) property or a service where the supply is deemed under Part IX (other than section 187) of the Act to have been made by the charity;

(*c*) personal property (other than property that was acquired, manufactured or produced by the charity for the purpose of making a supply by way of sale of the property) where, immediately before the time tax would be payable in respect of the supply if it were a taxable supply, the property was used (otherwise than in making the supply) in commercial activities of the charity or, in the case of capital property, primarily in such activities;

(*d*) tangible personal property (other than property supplied by the charity under a contract for catering) that was acquired, manufactured or produced by the charity for the purpose of making a supply by way of sale of the property and was neither donated to the charity nor used by another person before its acquisition by the charity except where the consideration for the supply paid or payable by the recipient is equal to the usual charge by the charity for such supplies to such recipients and is, or could reasonably be expected to be, less than the direct cost of the supply;

(*e*) a service supplied in respect of property the supply of which is included in paragraph (*d*);

(*f*) an admission in respect of a place of amusement unless the maximum consideration for a supply by the charity of such an admission does not exceed one dollar;

(*g*) a service involving, or a membership or other right entitling a person to, supervision or instruction in any recreational or athletic activity except where

(i) it could reasonably be expected, given the nature of the activity or the degree of relevant skill or ability required for participation in it, that such services, memberships or rights supplied by the charity would be provided primarily to children 14 years of age or under and the services are not supplied as part of, the membership is not in, or the right is not in respect of, a program involving overnight supervision throughout a substantial portion of the program, or

(ii) such services, memberships or rights supplied by the charity are intended to be provided primarily to individuals who are underprivileged or who have a disability;

(*h*) a membership (other than a membership described in subparagraph (*g*)(i) or (ii)) where the membership

(i) entitles the member

(A) to an admission in respect of a place of amusement the supply of which, were it made separately from the supply of the membership, would be a taxable supply, or

(B) to a discount on the value of consideration for a supply of such an admission, or

(ii) includes a right to participate in a recreational or athletic activity, or use facilities, at a place of amusement,

except where the value of the admission, discount or right is insignificant in relation to the consideration for the membership;

(*i*) services of performing artists in a performance where the supply is made to a person who makes taxable supplies of admissions in respect of the performance;

(*j*) a right, other than an admission, to play or participate in a game of chance where the charity is a prescribed person or the game is a prescribed game of chance;

(*k*) a residential complex, or an interest therein, where the supply is made by way of sale;

(*l*) real property where the supply is made by way of sale to an individual or a personal trust, other than a supply of real property on which is situated a structure that was used by the charity as an office or in the course of commercial activities or of making exempt supplies;

(*m*) real property where, immediately before the time tax would be payable in respect of the supply if it were a taxable supply, the property was used (otherwise than in making the supply) primarily in commercial activities of the charity; or

(*n*) real property in respect of which an election under section 211 of the Act is in effect at the time tax would become payable in respect of the supply if it were a taxable supply.

2. A supply made by a charity of an admission to a fund-raising dinner, ball, concert, show or like fund-raising event where part of the consideration for the supply may reasonably be regarded as an amount that is donated to the charity and in respect of which a receipt referred to in subsection 110.1(2) or 118.1(2) of the *Income Tax Act* may be issued or could be issued if the recipient of the supply were an individual.

3. A supply by way of sale of personal property or a service made by a charity in the course of a fund-raising activity of the charity, but not including

(*a*) a supply of any property or service where

(i) the charity makes supplies of such property or services in the course of that activity, or

(ii) the agreement for the supply entitles the recipient to receive from the charity property or services,

on a regular or continuous basis throughout the year or a significant portion of the year;

(*b*) a supply of property or a service included in paragraph 1(*a*), (*b*), (*c*) or (*j*); or

(*c*) a supply of an admission in respect of a place of amusement at which the principal activity is the placing of bets or the playing of games of chance.

4. A supply made by a charity of food or beverages to seniors, underprivileged individuals or individuals with a disability under a program established and operated for the purpose of providing prepared food to such individuals in their places of residence and any supply of food or beverages made to the charity for the purpose of the program.

5. A supply made by a charity of any property or service where all or substantially all of the supplies of the property or service by the charity are made for no consideration, but not including a supply of blood or blood derivatives.

6. A supply made by a charity of an admission in respect of a place of amusement at which the principal activity is the placing of bets or the playing of games of chance, where

(*a*) the administrative function and other functions performed in operating the game and taking the bets are performed exclusively by volunteers; and

(*b*) in the case of a bingo or casino, the game is not conducted in premises or at a place, including any temporary structure, that is used primarily for the purposes of conducting gambling activities.

(2) Subsection (1) applies to supplies for which consideration becomes due after 1996 or is paid after 1996 without having become due except that, in relation to supplies made by a charity of admissions to a dinner, ball, concert, show or like event for which the charity has supplied admissions before 1997, Schedule V to the Act applies as if this Act were not enacted.

103. (1) The definition "direct cost" in section 1 of Part VI of Schedule V to the Act is repealed.

(2) Subparagraph (*b*)(ii) of the definition "transit authority" in section 1 of Part VI of Schedule V to the English version of the Act is replaced by the following:

(ii) is established and operated for the purpose of providing public passenger transportation services to individuals with a disability.

(3) Section 1 of Part VI of Schedule V to the Act is amended by adding the following in alphabetical order:

"public sector body" does not include a charity;

"public service body" does not include a charity;

"registered party" means a party (including any regional or local association of the party), a candidate or a referendum committee governed by an Act of Parliament or a law of a province that imposes requirements relating to election finances or referendum expenses;

(4) Subsection (1) and the definitions "public sector body" and "public service body" in section 1 of Part VI of Schedule V to the Act, as enacted by subsection (3), come into force or are deemed to have come into force on January 1, 1997 except that the latter definitions also apply in relation to any supply made before that day by a person who is on that day a charity as defined on that day where consideration for the supply becomes due on or after that day or is paid on or after that day without having become due.

(5) The definition "registered party" in section 1 of Part VI of Schedule V to the Act, as enacted by subsection (3), is deemed to have come into force on ANNOUNCEMENT DATE and also applies in relation to any supply made before that day for which consideration becomes due on or after that day or is paid on or after that day without having become due.

104. (1) The portion of section 2 of Part VI of Schedule V to the Act before paragraph (*a*) is replaced by the following:

2. A supply made by a public institution of any personal property or a service, but not including a supply of

(2) Paragraphs 2(*b*) to (*e*) of Part VI of Schedule V to the Act are replaced by the following:

(*b*) property or a service the supply of which is deemed under Part IX of the Act to have been made by the institution;

(*c*) property (other than capital property of the institution or property that was acquired, manufactured or produced by the institution for the purpose of making a supply of the property) where, immediately before the time tax would be payable in respect of the supply if it were a taxable supply, the property was used (otherwise than in making the supply) in commercial activities of the institution;

(*d*) capital property of the institution where, immediately before the time tax would be payable in respect of the supply if it were a taxable supply, the property was used (otherwise than in making the supply) primarily in commercial activities of the institution;

(*e*) tangible property that was acquired, manufactured or produced by the institution for the purpose of making a supply of the property and was neither donated to the institution nor used by another person before its acquisition by the institution, or any service supplied by the institution in respect of such property, other than such property or such a service supplied by the institution under a contract for catering;

(3) Paragraph 2(*g*) of Part VI of Schedule V to the Act is replaced by the following:

(*g*) property or a service made by the institution under a contract for catering for an event or occasion sponsored or arranged by another person who contracts with the institution for catering;

(4) Subsections (1) to (3) apply to supplies for which consideration becomes due after 1996 or is paid after 1996 without having become due.

105. (1) Section 3 of Part VI of Schedule V to the Act is replaced by the following:

3. A supply made by a public institution of an admission to a fund-raising dinner, ball, concert, show or like fund-raising event where part of the consideration for the supply may reasonably be regarded as an amount that is donated to the institution and in respect of which a receipt referred to in subsection 110.1(2) or 118.1(2) of the *Income Tax Act* may be issued or could be issued if the recipient of the supply were an individual.

3.1. A supply by way of sale of personal property or a service made by a public institution in the course of a fund-raising activity of the institution, but not including

(*a*) a supply of any property or service where

(i) the institution makes supplies of such property or services in the course of that activity, or

(ii) the agreement for the supply entitles the recipient to receive from the institution property or services,

on a regular or continuous basis throughout the year or a significant portion of the year;

(*b*) a supply of property or a service included in paragraph 2(*a*), (*b*), (*c*), (*d*) or (*k*); or

(*c*) a supply of an admission in respect of a place of amusement at which the principal activity is the placing of bets or the playing of games of chance.

(2) Subsection (1) applies to supplies for which consideration becomes due after 1996 or is paid after 1996 without having become due except that it does not apply to supplies of admissions to a dinner, ball, concert, show or like event for which admissions have been supplied before 1997.

106. (1) Section 5.1 of Part VI of Schedule V to the Act is replaced by the following:

5.1 A supply made by a public institution or non-profit organization (other than a prescribed person) of a right, other than an admission, to play or participate in a game of chance (other than a prescribed game of chance).

(2) Subsection (1) applies to supplies for which consideration becomes due after 1996 or is paid after 1996 without having become due.

107. (1) Paragraph 5.2(*a*) of Part VI of Schedule V to the Act is replaced by the following:

(*a*) by a public institution or non-profit organization (other than a prescribed person); or

(2) Subsection (1) applies to supplies for which consideration becomes due after 1996 or is paid after 1996 without having become due.

108. (1) Sections 6 to 8 of Part VI of Schedule V to the Act are replaced by the following:

6. A supply by way of sale made by a public service body of tangible personal property (other than capital property of the body) or a service where the value of the consideration for the supply paid or payable by the recipient is equal to the usual charge by the body for such supplies to such recipients and does not, or could not reasonably be expected to, equal or exceed the direct cost of the supply.

(2) Subsection (1) applies to supplies for which all of the consideration becomes due after 1996 or is paid after 1996 without having become due.

109. (1) Sections 9 and 10 of Part VI of Schedule V to the Act are replaced by the following:

9. A supply made by a public sector body of an admission in respect of a place of amusement where the maximum consideration for a supply by the body of such an admission does not exceed one dollar.

10. A supply made by a public sector body of any property or service where all or substantially all of the supplies of the property or service by the body are made for no consideration, but not including a supply of blood or blood derivatives.

(2) Section 9 of Part VI of Schedule V to the Act, as enacted by subsection (1), applies to supplies made after ANNOUNCEMENT DATE.

(3) Section 10 of Part VI of Schedule V to the Act, as enacted by subsection (1), is deemed to have come into force on December 17, 1990 except that, with respect to supplies made on or before ANNOUNCEMENT DATE, the reference to "des fournitures des biens ou services" in the French version of that section shall be read as a reference to "des fournitures de tels biens ou services".

110. Paragraph 12(*b*) of Part VI of Schedule V to the Act is replaced by the following:

(*b*) the program is provided primarily for underprivileged individuals or individuals with a disability.

111. Section 13 of Part VI of Schedule V to the Act is replaced by the following:

13. A supply made by a public sector body of board and lodging, or recreational services, at a recreational camp or similar place under a program or arrangement for providing the board and lodging or services primarily to underprivileged individuals or individuals with a disability.

112. Section 15 of Part VI of Schedule V to the Act is replaced by the following:

15. A supply made by a public sector body of food or beverages to seniors, underprivileged individuals or individuals with a disability under a program established and operated for the purpose of providing prepared food to such individuals in their places of residence and any supply of food or beverages made to the public sector body for the purpose of the program.

113. (1) Sections 17 and 18 of Part VI of Schedule V to the Act are replaced by the following:

17. A supply of a membership in a registered party.

18. A supply made by a registered party to a person where part of the consideration for the supply may reasonably be regarded as an amount (in this section referred to as the "amount contributed") that is contributed to the registered party and the person can claim a deduction or credit in determining tax payable by the person under the *Income Tax*

Act or a similar Act of the legislature of a province in respect of the total of such amounts contributed.

(2) Subsection (1) applies to supplies made after ANNOUNCEMENT DATE except that section 18 of Part VI of Schedule V to the Act, as enacted by subsection (1), does not apply to supplies made before 1997 or to supplies of admissions to an event for which admissions have been supplied before 1997.

114. (1) Paragraph 20(*e*) of Part VI of Schedule V to the Act is replaced by the following:

(*e*) a supply of a service of providing information, or of any certificate or other document, in respect of

(i) the title to, or any right or estate in, property,

(ii) any encumbrance or assessment in respect of property, or

(iii) the zoning of real property.

(2) Paragraph 20(*h*) of Part VI of Schedule V to the Act is replaced by the following:

(*h*) a supply of a service of collecting garbage, including recyclable materials, and

(3) Subsection (1) applies to supplies for which all of the consideration becomes due after 1996 or is paid after 1996 without having become due.

(4) Subsection (2) is deemed to have come into force on December 17, 1990 except that with respect to supplies of services performed before 1997, paragraph 20(*h*) of Part VI of Schedule V to the Act, as enacted by subsection (2), shall be read as follows:

(*h*) a supply of a service of collecting garbage, including recyclable materials, but not including a supply of a service that is not part of the basic garbage collection service supplied by the government or municipality on a regularly scheduled basis, and

115. (1) Sections 21 to 24 of Part VI of Schedule V to the Act are replaced by the following:

21. A supply of a municipal service made by or on behalf of a government or municipality to owners or occupants of real property situated in a particular geographic area where

(*a*) the owners or occupants have no option but to receive the service, or

(*b*) the service is supplied because of a failure by an owner or occupant to comply with an obligation imposed under a law,

but not including a supply of a service of testing or inspecting any property for the purpose of verifying or certifying that the property meets particular standards of quality or is suitable for consumption, use or supply in a particular manner.

21.1 A supply made by a municipality or a board, commission or other body established by a municipality of a service of

(*a*) installing, replacing, repairing or removing street or road signs or barriers, street or traffic lights or property similar to any of the foregoing;

(*b*) removing snow, ice or water;

(*c*) removing, cutting, pruning, treating or planting vegetation;

(*d*) repairing or maintaining roads, streets, sidewalks or similar or adjacent property; or

(*e*) installing accesses or egresses.

22. A supply of a service, made by a municipality or by an organization that operates a water distribution, sewerage or drainage system and that is designated by the Minister to be a municipality for the purposes of this section, of installing, repairing, maintaining or interrupting the operation of a water distribution, sewerage or drainage system.

23. A supply of

(*a*) unbottled water (other than a zero-rated supply and a supply of water dispensed in single servings to consumers through a vending machine or at a permanent establishment of the supplier) when made by a person other than a government or by a government designated

by the Minister to be a municipality for the purposes of this section, or

(*b*) the service of delivering water when the service is supplied by the supplier of the water and that supply of water is included in paragraph (*a*).

24. A supply made to a member of the public of a municipal transit service or of a public passenger transportation service designated by the Minister to be a municipal transit service.

(2) Section 21 of Part VI of Schedule V to the Act, as enacted by subsection (1), applies to supplies for which consideration becomes due after ANNOUNCEMENT DATE or is paid after that day without having become due.

(3) Sections 21.1 and 22 of Part VI of Schedule V to the Act, as enacted by subsection (1), apply to supplies for which consideration becomes due after 1996 or is paid after 1996 without having become due.

(4) Sections 23 and 24 of Part VI of Schedule V to the Act, as enacted by subsection (1), apply to supplies for which all of the consideration becomes due after ANNOUNCEMENT DATE or is paid after that day without having become due.

116. (1) Paragraph 25(*c*) of Part VI of Schedule V to the Act is replaced by the following:

(*c*) real property made by way of sale to an individual or a personal trust, other than a supply of real property on which is situated a structure that was used by the body as an office or in the course of commercial activities or of making exempt supplies;

(2) Subparagraph 25(*f*)(i) of Part VI of Schedule V to the Act is replaced by the following:

(i) lease, where the period throughout which continuous possession or use of the property is provided under the lease is less than one month,

(3) Section 25 of Part VI of Schedule V to the Act is amended by striking out the word "or" at the end of paragraph (*g*), by adding the word "or" at the end of paragraph (*h*) and by adding the following after paragraph (*h*):

(*i*) real property the last supply of which to the body was deemed to have been made under subsection 183(1) of the Act.

(4) Subsection (1) applies to supplies made after ANNOUNCEMENT DATE.

(5) Subsection (2) applies to supplies made after September 14, 1992 but does not apply for the purpose of determining any amount claimed (other than an amount deemed under paragraph 296(5)(*a*) of the Act to have been claimed as a result of an assessment made after ANNOUNCEMENT DATE) in a return under Division V, or in an application under Division VI, of Part IX of the Act received by the Minister of National Revenue before ANNOUNCEMENT DATE.

(6) Subsection (3) applies to

(*a*) any supply made by a public service body after ANNOUNCEMENT DATE; and

(*b*) any supply made by a public service body on or before that day unless

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

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

117. (1) The portion of section 28 of Part VI of Schedule V to the Act following paragraph (*e*) is replaced by the following:

but not including

(*f*) a supply of electricity, gas, steam or telecommunication services made by a public utility, or

(*g*) any supply made or received by

(i) a provincially established designated body,

(ii) a para-municipal organization designated under section 259 of the Act or section 22 or 23, or

(iii) another organization referred to in paragraph (*e*),

otherwise than in the course of the designated activities of the body or organization, as the case may be.

(2) Subsection (1) applies to supplies for which consideration becomes due after ANNOUNCEMENT DATE or is paid after that day without having become due.

118. (1) The definition "practitioner" in section 1 of Part I of Schedule VI to the Act is repealed.

(2) The definition "prescription" in section 1 of Part I of Schedule VI to the Act is replaced by the following:

"prescription" means a written or verbal order, given to a pharmacist by a medical practitioner, directing that a stated amount of any drug or mixture of drugs specified in the order be dispensed for the individual named in the order.

(3) Section 1 of Part I of Schedule VI to the Act is amended by adding the following in alphabetical order:

"medical practitioner" means a person who is entitled under the laws of a province to practise the profession of medicine or dentistry;

(4) Subsections (1) to (3) are deemed to have come into force on ANNOUNCEMENT DATE.

119. (1) Paragraphs 3(*a*) and (*b*) of Part I of Schedule VI to the Act are replaced by the following:

(*a*) by a medical practitioner to an individual for the personal consumption or use of the individual or an individual related thereto; or

(*b*) on the prescription of a medical practitioner for the personal consumption or use of the individual named in the prescription.

(2) Subsection (1) applies to supplies made after ANNOUNCEMENT DATE.

120. The heading "MEDICAL DEVICES" before section 1 of Part II of Schedule VI to the Act is replaced by the following:

MEDICAL AND ASSISTIVE DEVICES

121. (1) The definition "practitioner" in section 1 of Part II of Schedule VI to the Act is replaced by the following:

"medical practitioner" means a person who is entitled under the laws of a province to practise the profession of medicine.

(2) Subsection (1) is deemed to have come into force on ANNOUNCEMENT DATE.

122. (1) Sections 2 to 4 of Part II of Schedule VI to the Act are replaced by the following:

2. A supply of a communication device, other than a device described in section 7, that is specially designed for use by an individual with a hearing, speech or vision impairment.

3. A supply of a heart-monitoring device when the device is supplied on the written order of a medical practitioner for use by a consumer with heart disease who is named in the order.

4. A supply of a hospital bed, when the bed is supplied to the operator of a health care facility (within the meaning assigned by section 1 of Part II of Schedule V) or on the written order of a medical practitioner for use by an incapacitated individual named in the order.

(2) Subsection (1) applies to supplies for which consideration becomes due after ANNOUNCEMENT DATE or is paid after that day without having become due.

123. Section 5 of Part II of Schedule VI to the French version of the Act is replaced by the following:

5. La fourniture d'un appareil de respiration artificielle conçu spécialement pour les personnes ayant des troubles respiratoires.

124. (1) Section 5.1 of Part II of Schedule VI to the Act is replaced by the following:

5.1 A supply of an aerosol chamber or a metered dose inhaler for use in the treatment of asthma when the chamber or inhaler is supplied on the written order of a medical practitioner for use by a consumer named in the order.

5.2 A supply of a respiratory monitor, nebulizer, tracheostomy supply, gastro-intestinal tube, dialysis machine, infusion pump or intravenous apparatus, that can be used in the residence of an individual.

(2) Subsection (1) applies to supplies made after ANNOUNCEMENT DATE.

125. (1) Sections 7 to 9 of Part II of Schedule VI to the Act are replaced by the following:

7. A supply of a device that is designed to convert sound to light signals when the device is supplied on the written order of a medical practitioner for use by a consumer with a hearing impairment who is named in the order.

8. A supply of a selector control device that is specially designed to enable an individual with a disability to select, energize or control household, industrial or office equipment.

9. A supply of eyeglasses or contact lenses when the eye glasses or lenses are supplied on the written order of an eye-care professional for the treatment or correction of a defect of vision of a consumer named in the order where the eye-care professional is entitled under the laws of the province in which the professional practises to prescribe eyeglasses or contact lenses for such purpose.

(2) Sections 7 and 9 of Part II of Schedule VI to the Act, as enacted by subsection (1), apply to supplies made after ANNOUNCEMENT DATE.

126. (1) Part II of Schedule VI to the Act is amended by adding the following after section 11:

11.1 A supply of an orthodontic appliance.

(2) Subsection (1) applies to supplies for which all of the consideration becomes due after ANNOUNCEMENT DATE or is paid after that day without having become due.

127. Sections 14 and 15 of Part II of Schedule VI to the Act are replaced by the following:

14. A supply of a chair, commode chair, walker, wheelchair lift or similar aid to locomotion, with or without wheels, including motive power and wheel assemblies therefor, that is specially designed for use by an individual with a disability.

15. A supply of a patient lifter that is specially designed to move an individual with a disability.

128. (1) Sections 18 to 20 of Part II of Schedule VI to the Act are replaced by the following:

18. A supply of an auxiliary driving control that is designed for attachment to a motor vehicle to facilitate the operation of the vehicle by an individual with a disability.

18.1 A supply of a service of modifying a motor vehicle to adapt the vehicle for the transportation of an individual using a wheelchair and a supply of property (other than the vehicle) made in conjunction with, and because of, the supply of the service.

19. A supply of a patterning device that is specially designed for use by an individual with a disability.

20. A supply of a toilet-, bath- or shower-seat that is specially designed for use by an individual with a disability.

(2) Section 18.1 of Part II of Schedule VI to the Act, as enacted by subsection (1), applies to supplies for which consideration becomes due after ANNOUNCEMENT DATE or is paid after that day without having become due.

129. (1) Sections 21.1 and 21.2 of Part II of Schedule VI to the Act are replaced by the following:

21.1 A supply of an extremity pump, intermittent pressure pump or similar device for use in the treatment of lymphedema when the pump or device is supplied on the written order of a medical practitioner for use by a consumer named in the order.

21.2 A supply of a catheter for subcutaneous injections or a lancet when the catheter or lancet is supplied on the written order of a medical practitioner for use by a consumer named in the order.

(2) Subsection (1) applies to supplies made after ANNOUNCEMENT DATE.

130. (1) Sections 23 and 23.1 of Part II of Schedule VI to the Act are replaced by the following:

23. A supply of an orthotic or orthopaedic device that is made to order for an individual or is supplied on the written order of a medical practitioner for use by a consumer named in the order.

(2) Subsection (1) applies to supplies for which all of the consideration becomes due after ANNOUNCEMENT DATE or is paid after that day without having become due except that, with respect to supplies for which consideration becomes due before the particular day that is 21 days after ANNOUNCEMENT DATE or is paid before the particular day without having become due, section 23 of Part II of Schedule VI to the Act, as enacted by subsection (1), shall be read as follows:

23. A supply of

(*a*) an orthotic device when the device is supplied on the written order of a medical practitioner for use by a consumer named in the order; or

(*b*) a spinal or other orthopaedic brace.

131. Section 24 of Part II of Schedule VI to the French version of the Act is replaced by the following:

24. La fourniture d’un appareil fabriqué sur commande pour les personnes ayant une infirmité ou une difformité du pied ou de la cheville.

132. (1) Part II of Schedule VI to the Act is amended by adding the following after section 24:

24.1 A supply of footwear that is specially designed for use by an individual who has a crippled or deformed foot or other similar disability, when the footwear is supplied on the written order of a medical practitioner.

(2) Subsection (1) applies to supplies for which all of the consideration becomes due after 1996 or is paid after 1996 without having become due.

133. Section 27 of Part II of Schedule VI to the Act is replaced by the following:

27. A supply of a cane or crutch that is specially designed for use by an individual with a disability.

134. (1) Section 30 of Part II of Schedule VI to the Act is replaced by the following:

30. A supply of any article that is specially designed for the use of blind individuals when the article is supplied for use by a blind individual to or by the Canadian National Institute for the Blind or any other *bona fide* institution or association for blind individuals or on the order or certificate of a medical practitioner.

(2) Subsection (1) applies to supplies made after ANNOUNCEMENT DATE.

135. Sections 33 and 33.1 of Part II of Schedule VI to the French version to the Act are replaced by the following:

33. La fourniture d'un chien qui est un chien-guide, ou doit être dressé à cette fin, y compris le service qui consiste à apprendre à la personne aveugle comment se servir du chien, si la fourniture est effectuée par une organisation spécialisée dans la fourniture de tels chiens aux personnes aveugles, ou à son profit.

33.1 La fourniture d'un chien dressé pour aider les personnes ayant une déficience auditive, ou qui doit être dressé à cette fin, ou la fourniture du service qui consiste à apprendre à ces personnes comment se servir d'un tel chien, si la fourniture est effectuée par une organisation spécialisée dans la fourniture de tels chiens à ces personnes, ou à son profit.

136. (1) Sections 35 and 36 of Part II of Schedule VI to the Act are replaced by the following:

35. A supply of a graduated compression stocking, an anti-embolic stocking or similar article when the stocking or article is supplied on the written order of a medical practitioner for use by a consumer named in the order.

36. A supply of clothing that is specially designed for use by an individual with a disability when the clothing is supplied on the written order of a medical practitioner for use by a consumer named in the order.

37. A supply of an incontinence product that is specially designed for use by an individual with a disability.

38. A supply of a feeding utensil or other gripping device that is specially designed for use by an individual with impaired use of hands or other similar disability.

39. A supply of a reaching aid that is specially designed for use by an individual with a disability.

40. A supply of a prone board that is specially designed for use by an individual with a disability.

(2) Subsection (1) applies to supplies made after ANNOUNCEMENT DATE.

137. (1) Paragraph 1(*b*) of Part III of Schedule VI to the Act is repealed.

(2) Paragraphs 1(*j*) and (*k*) of Part III of Schedule VI to the Act are replaced by the following:

(*j*) ice lollies, juice bars, flavoured, coloured or sweetened ice waters, or similar products, whether frozen or not;

(*k*) ice cream, ice milk, sherbet, frozen yoghurt or frozen pudding, non-dairy substitutes for any of the foregoing, or any product that contains any of the foregoing, when packaged or sold in single servings;

(3) Paragraph 1(*o*) of Part III of Schedule VI to the Act is replaced by the following:

(*o*) food or beverages heated for consumption;

(*o*.1) salads not canned or vacuum sealed;

(*o*.2) sandwiches and similar products other than when frozen;

(*o*.3) platters of cheese, cold cuts, fruit or vegetables and other arrangements of prepared food;

(*o*.4) beverages dispensed at the place where they are sold;

(*o*.5) food or beverages sold under a contract for, or in conjunction with, catering services;

(4) Subsections (2) and (3) apply to supplies for which all of the consideration becomes due on or after the particular day that is 21 days after ANNOUNCEMENT DATE or is paid on or after the particular day without having become due.

138. (1) Section 2 of Part IV of Schedule VI to the Act is replaced by the following:

2. A supply of

(*a*) grains or seeds in their natural state, treated for seeding purposes or irradiated for storage purposes,

(*b*) hay or silage, or

(*c*) other fodder crops,

that are ordinarily used as, or to produce, food for human consumption or feed for farm livestock or poultry, when supplied in a quantity that is larger than the quantity that is ordinarily sold or offered for sale to consumers, but not including grains or seeds or mixtures thereof that are packaged, prepared or sold for use as feed for wild birds or as pet food.

(2) Subsection (1) applies to supplies for which consideration becomes due after ANNOUNCEMENT DATE or is paid after that day without having become due.

139. (1) The portion of section 5 of Part IV of Schedule VI to the Act before paragraph (*a*) is replaced by the following:

5. A supply of fertilizer (other than compost) made at any time to a recipient when the fertilizer is supplied

(2) Subsection (1) applies to supplies made after ANNOUNCEMENT DATE.

140. (1) Paragraph 2(*a*) of Part V of Schedule VI to the Act is replaced by the following:

(*a*) where the person carries on a business of transporting passengers or property to or from Canada or between places outside Canada by ship, aircraft or railway, in the course of so transporting passengers or property;

(2) Subsection (1) applies to supplies made after ANNOUNCEMENT DATE.

141. (1) Paragraph 2.1(*a*) of Part V of Schedule VI to the Act is replaced by the following:

(*a*) the person carries on a business of transporting passengers or property to or from Canada or between places outside Canada by ship, aircraft or railway; and

(2) Subsection (1) applies to supplies made after ANNOUNCEMENT DATE.

142. (1) Sections 4 to 6 of Part V of Schedule VI to the Act are replaced by the following:

4. A supply of

(*a*) a service (other than a transportation service) in respect of tangible personal property that is

(i) ordinarily situated outside Canada,

(ii) temporarily imported for the sole purpose of having the service performed, and

(iii) exported as soon as is practicable after the service is performed; and

(*b*) any tangible personal property supplied in conjunction with the service.

5. A supply made to a non-resident person of a service of acting as an agent of the person or of arranging for, procuring or soliciting orders for supplies by or to the person, where the service is in respect of

(*a*) a supply to the person that is included in any other section of this Part; or

(*b*) a supply made outside Canada by or to the person.

6. A supply made by a person to a non-resident recipient of an emergency repair service, and of any tangible personal property supplied in conjunction with the service, in respect of a conveyance or cargo container that is being used or transported by the person in the course of a business of transporting passengers or property.

6.1 A supply made to a non-resident person who is not registered under Subdivision d of Division V of Part IX of the Act of an emergency repair service, and of any tangible personal property supplied in conjunction with the service, in respect of railway rolling stock that is being used in the course of a business to transport passengers or property.

6.2 A supply made to a non-resident person who is not registered under Subdivision d of Division V of Part IX of the Act of

(*a*) an emergency repair service in respect of, or a service of storing, an empty cargo container that

(i) is used in transporting property to or from Canada, and

(ii) is classified under heading No. 98.01 or subheading No. 9823.90 of Schedule I to the *Customs Tariff*,

other than a container less than 6.1 metres in length or having an internal capacity less than 14 cubic metres; and

(*b*) any tangible personal property supplied in conjunction with the repair service referred to in paragraph (*a*).

(2) Sections 4 and 6 to 6.2 of Part V of Schedule VI to the Act, as enacted by subsection (1), apply to supplies made after ANNOUNCEMENT DATE.

(3) Section 5 of Part V of Schedule VI to the Act, as enacted by subsection (1), is deemed to have come into force on December 17, 1990.

143. (1) The portion of section 7 of Part V of Schedule VI to the Act before paragraph (*b*) is replaced by the following:

7. A supply of a service made to a non-resident person, but not including a supply of

(*a*) a service made to an individual who is in Canada at any time when the individual has contact with the supplier in relation to the supply;

(*a*.1) a service that is rendered to an individual while that individual is in Canada;

(2) Paragraph 7(*f*) of Part V of Schedule VI to the Act is replaced by the following:

(*f*) a service of acting as an agent of the non-resident person or of arranging for, procuring or soliciting orders for supplies by or to the person; or

(3) Subsection (1) applies to supplies for which all of the consideration becomes due on or after July 1, 1996 or is paid on or after that day without having become due.

(4) Subsection (2) applies to supplies made after ANNOUNCEMENT DATE.

144. (1) Section 12 of Part V of Schedule VI to the Act is replaced by the following:

12. A supply of tangible personal property where the supplier delivers the property to a common carrier, or mails the property, for export.

(2) Subsection (1) applies to supplies made after ANNOUNCEMENT DATE.

145. (1) Section 22 of Part V of Schedule VI to the Act is replaced by the following:

22. A supply of a postal service where the supply is made, by a registrant who carries on the business of supplying postal services, to a non-resident person who is not a registrant and who carries on such a business.

22.1 A supply of a telecommunication service where the supply is made, by a registrant who carries on the business of supplying telecommunication services, to a non-resident person who is not a registrant and who carries on such a business, but not including a supply of a telecommunication service where the telecommunication is emitted and received in Canada.

(2) Subsection (1) applies to supplies made after ANNOUNCEMENT DATE and section 22.1 of Part V of Schedule VI to the Act, as enacted by subsection (1), also applies to supplies made on or before that day unless

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

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

146. (1) Paragraph 23(*d*) of Part V of Schedule VI to the Act is replaced by the following:

(*d*) a service of acting as an agent of the non-resident person or of arranging for, procuring or soliciting orders for supplies by or to the person.

(2) Subsection (1) applies to supplies made after ANNOUNCEMENT DATE.

147. (1) The definition "international flight" in subsection 1(1) of Part VII of Schedule VI to the Act is repealed.

(2) Subsection (1) is deemed to have come into force on THE DAY AFTER ANNOUNCEMENT DATE.

148. (1) Section 5 of Part VII of Schedule VI to the Act is repealed.

(2) Subsection (1) applies to supplies made after ANNOUNCEMENT DATE.

149. (1) Part VII of Schedule VI to the Act is amended by adding the following section:

15. A supply of an air ambulance service made by a person who carries on the business of supplying air ambulance services, where the transportation is to or from a place outside Canada.

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

Transitional Provisions

Deregistration of public service body

150. Where, under subsection 242(2) of the *Excise Tax Act*, the Minister of National Revenue receives a request from a public service body to cancel the registration of the body at any time in the two-year period commencing on ANNOUNCEMENT DATE and that registration was not one which had become effective in that period and for which an application under subsection 240(3) of that Act had been made by the body, paragraph 242(2)(*b*) of that Act does not apply in respect of the request and where the registration is cancelled at that time,

(*a*) subsection 171(3) of that Act does not apply to deem the body to have, at or immediately before that time, made or received supplies of property of the body that was held by the body immediately before that time, to have collected tax or to have,

immediately before that time, ceased to use such property in commercial activities;

(*b*) paragraph 171(4)(*b*) of that Act does not apply for the purpose of determining the net tax of the body for the last reporting period of the body beginning before that time; and

(*c*) in determining the input tax credits of the body for the first reporting period of the body ending after the body next becomes a registrant,

(i) subsection 171(1) of that Act does not apply to any property referred to in paragraph (*a*), and

(ii) paragraph 171(2)(*a*) of that Act does not apply to any tax that was included in determining an input tax credit of the body for a reporting period of the body ending before that first reporting period.

Small supplier divisions of a public service body

151. Where at any time in the two-year period commencing on ANNOUNCEMENT DATE, a branch or division of a public service body that is a registrant becomes a small supplier division within the meaning of subsection 129(1) of the *Excise Tax Act*,

(*a*) subsection 129(6) of that Act does not apply to deem the body to have, immediately before that time, made a supply of any property that was held by the body immediately before that time for consumption, use or supply in the course of activities engaged in by the body through the branch or division or to have collected tax in respect of the property;

(*b*) any consumption, use or supply of the property in the course of activities engaged in by the body through the branch or division during the period beginning at that time and ending at the time the branch or division ceases to be a small supplier division is deemed, for the purposes of subsections 129.1(4) to (6) of that Act, not to be in the course of activities engaged in through a small supplier division; and

(*c*) paragraph 129(7)(*e*) of that Act does not apply for the purpose of determining the net tax of the body for its reporting period that includes that time.

Charities and change in use caused by enactment

152. Where, because of the enactment of a provision of this Act amending the *Excise Tax Act*, a charity (within the meaning assigned by subsection 123(1) of that Act, as amended by section 1) is deemed under subsection 200(2), 203(2) or 206(4) or (5) of that Act to have made a supply of property and to have collected, at any time, tax in respect of the supply, for the purpose of determining the amount of tax that is deemed under that subsection to have been collected or paid at that time, the amount of tax calculated on the fair market value of the property at that time is deemed to be equal to zero.

Application of subsection 334(1) of the *Excise Tax Act*

153. For the purposes of subsections 1(15) to (17), (19) to (21), 23(5), 24(2), 33(12), 59(13), 60(4), 62(4) and 64(6) and (8), 69(11), 76(2), 86(2), 88(3), 89(2), 116(5) and (6) and 145(2), subsection 334(1) of the *Excise Tax Act* does not apply.

Application to imported goods

154. Where a provision of the *Excise Tax Act*, as enacted or amended by this Act, applies to goods imported on or after a particular day, that provision also applies to goods imported before that day that were not accounted for under section 32 of the *Customs Act* before that day.

PART II

INCOME TAX ACT

155. (1) Paragraph 6(1)(*e*.1) of the *Income Tax Act* is repealed.

(2) Subsection 6(7) of the Act is replaced by the following:

Cost of automobile

(7) In determining the amount required under paragraph (1)(*e*) to be included in computing the income of a taxpayer for a taxation year, the cost to a person of an automobile owned by the person and the amounts payable by a person for the purpose of leasing an automobile shall include any tax that was payable by the person in respect of the automobile or that would have been so payable if the person were not exempt from the payment of that tax because of the nature of the person or the use to which the automobile is to be put.

(3) Subsections (1) and (2) apply to the 1996 and subsequent taxation years.

156. (1) Paragraph 12(1)(*y*) of the Act is replaced by the following:

Automobile provided to partner

(*y*) where the taxpayer is an individual who is a member of a partnership or an employee of a member of a partnership and the partnership makes an automobile available in the year to the taxpayer or to a person related to the taxpayer, the amounts that would be included by reason of paragraph 6(1)(*e*) in the income of the taxpayer for the year if the taxpayer were employed by the partnership;

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

157. (1) Subsections 15(1.3) and (1.4) of the Act are repealed.

(2) Subsection 15(5) of the Act is replaced by the following:

Automobile benefit

(5) For the purposes of subsection (1), the value of the benefit to be included in computing a shareholder's income for a taxation year with

respect to an automobile made available to the shareholder, or a person related to the shareholder, by a corporation shall (except where an amount is determined under subparagraph 6(1)(*e*)(i) in respect of the automobile in computing the shareholder's income for the year) be computed on the assumption that subsections 6(1), (1.1), (2) and (7) apply, with such modifications as the circumstances require, and as though the references therein to "the employer of the taxpayer", "the taxpayer's employer" and "the employer" were read as "the corporation".

(3) Subsections (1) and (2) apply to the 1996 and subsequent taxation years.

PART III

AN ACT TO AMEND THE *EXCISE TAX ACT*, THE *CRIMINAL CODE*, THE *CUSTOMS ACT*, THE *CUSTOMS TARIFF*, THE *EXCISE ACT*, THE *INCOME TAX ACT*, THE *STATISTICS ACT* AND THE *TAX COURT OF CANADA ACT*

158. (1) Section 12 of *An Act to amend the Excise Tax Act, the Criminal Code, the Customs Act, the Customs Tariff, the Excise Act, the Income Tax Act, the Statistics Act and the Tax Court of Canada Act*, being chapter 45 of the Statutes of Canada, 1990, is amended by adding the following after subsection (3):

(4) Notwithstanding subsection (2), section 182 of the Act, as enacted by subsection (1), applies with respect to amounts paid or forfeited, or debts or other obligations reduced or extinguished, after 1990.

(2) Subsection (1) is deemed to have come into force on THE DAY AFTER ANNOUNCEMENT DATE.

PART IV

AN ACT TO AMEND THE *EXCISE TAX ACT* *AND A RELATED ACT*

159. Subsection 4(2) of *An Act to amend the Excise Tax Act and a related Act,* being chapter 9 of the Statutes of Canada, 1994, is amended by adding the word "and" at the end of paragraph (*a*), by deleting the word "and" at the end of paragraph (*b*) and by deleting paragraph (*c*).

Draft Regulations

DRAFT REGULATIONS

1. (1) Subparagraph 1(1)(*c*)(xiv) of the schedule to the *Agriculture and Fishing Property (GST) Regulations* is replaced by the following:

(xiv) mulchers with an operational width of at least 2.44 m (8 feet)

(2) Subparagraph 1(1)(*f*)(ii) of the schedule to the Regulations is replaced by the following:

(ii) transportable conveyors with belts less than 76.2 cm (30 inches) wide and 0.48 cm (3/16 inch) thick, transportable farm grain augers, transportable utility augers and transportable elevators

(3) Paragraph 1(1)(*g*) of the schedule to the Regulations is amended by adding the following after subparagraph (iv):

(iv.1) self-propelled, tractor mounted or pull-type agricultural wagons or trailers designed

(A) for off-road handling and transporting of grain, forage, livestock feed or fertilizer, and

(B) to be used at speeds not exceeding 40 km per hour

(iv.2) shredders with an operational width of at least 3.66 m (12 feet)

(4) Paragraph 1(1)(*g*) of the schedule to the Regulations is amended by adding the following after subparagraph (vi):

(vi.1) assembled and fully operational automated and computerized farm livestock or poultry feeding systems

(vi.2) individual components of an automated and computerized farm livestock or poultry feeding system when the components are supplied together unassembled and, once assembled, constitute the fully operational system

(5) Section 1 of the schedule to the Regulations is amended by adding the following after subsection (2):

(2.1) Feed, when sold in bulk quantities of at least 20 kg (44 lbs) or in bags that contain at least 20 kg (44 lbs), that is designed for ostriches, rheas, emus or bees.

(6) Subsection 1(3) of the schedule to the Regulations is replaced by the following:

(3) By-products of the food processing industry and plant or animal products, when sold in bulk quantities of at least 20 kg (44 lbs) or in bags that contain at least 20 kg (44 lbs) and ordinarily used as feed, or as ingredients in feed, for farm livestock, fish or poultry described in subparagraph 2(*c*)(i) or for rabbits, ostriches, rheas, emus or bees.

2. (1) Subsections 1(1) to (5) apply to supplies of property for which consideration becomes due after ANNOUNCEMENT DATE or is paid after that day without having become due.

(2) Subsection 1(6) is deemed to have come into force on December 31, 1990 except that,

(*a*) in respect of supplies of by-products, and plant or animal products, delivered to recipients before December 11, 1992, subsection 1(3) of the schedule to the Regulations, as enacted by subsection 1(6), shall be read as follows:

(3) By-products of the food processing industry and plant or animal products, when sold in bulk quantities of at least 20 kg (44 lbs) or in bags that contain at least 20 kg (44 lbs) and ordinarily used as feed, or as ingredients in feed, for farm livestock, fish or poultry, described in paragraph 2(*c*).

and

(*b*) in respect of supplies of by-products, and plant or animal products, delivered to recipients after December 10, 1992 and for which all of the consideration became due or was paid on or before ANNOUNCEMENT DATE, subsection 1(3) of the schedule to the Regulations, as enacted by subsection 1(6), shall be read as follows:

(3) By-products of the food processing industry and plant or animal products, when sold in bulk quantities of at least 20 kg (44 lbs) or in bags that contain at least 20 kg (44 lbs) and ordinarily used as feed, or as ingredients in feed, for farm livestock, fish or poultry described in subparagraph 2(*c*)(i) or for rabbits.

DRAFT REGULATIONS

1. The title of the *Credit Note Information Regulations* is replaced by the following:

REGULATIONS PRESCRIBING THE INFORMATION THAT IS TO BE CONTAINED IN CREDIT NOTES AND DEBIT NOTES

2. Section 1 of the Regulations is replaced by the following:

1. These Regulations may be cited as the *Credit Note and Debit Note Information (GST) Regulations*.

3. Section 2 of the Regulations is replaced by the following:

2. The definitions in this section apply in these Regulations.

"Act" means the *Excise Tax Act*. (*Loi*)

"intermediary" of a person, in respect of a supply, means a registrant who causes or facilitates the making of the supply by the person. (*intermédiaire*)

4. (1) The portion of section 3 of the Regulations before paragraph (*c*) is replaced by the following:

3. For the purposes of paragraph 232(3)(*a*) of the Act, the following information is prescribed information that is to be contained in a credit note or a debit note, as the case may be, relating to a supply:

(*a*) a statement or other indication that the document in question is a credit note or a debit note;

(*b*) the supplier's name or the name under which the supplier does business or, where there is an intermediary in respect of the supply, the name of the intermediary or the name under which the intermediary does business, and the registration number assigned under section 241 of the Act to the supplier or the intermediary, as the case may be;

(2) Paragraphs 3(*d*) to (*f*) of the Regulations are replaced by the following:

(*d*) the date on which the note is issued;

(*e*) where the note is issued in respect of a patronage dividend in circumstances in which section 233 of the Act applies and the issuer of the dividend has not made an election under subparagraph 233(2)(*a*)(ii) that is in effect for the fiscal year of the issuer in which the dividend is paid, the specified amount (within the meaning assigned by subsection 233(1) of the Act) in respect of the patronage dividend, the consideration fraction of the specified amount and the tax fraction of the specified amount; and

(3) Paragraph 3(*g*) of the Regulations is renumbered as paragraph 3(*f*) and the portion of that paragraph before subparagraph (iii) is replaced by the following:

(*f*) except where paragraph (*e*) applies,

(i) where a single invoice in respect of the supply is issued to the recipient by the supplier or the intermediary in respect of the supply or the supply is made pursuant to an agreement in writing, the date of the invoice or of the agreement,

(ii) where the note is issued in respect of more than one invoice, the date of the invoice that was issued first and the date of the invoice that was issued last,

5. Sections 1, 2 and 4 shall be deemed to have come into force on December 31, 1990 except that, in relation to supplies made on or before ANNOUNCEMENT DATE,

(*a*) paragraph 3(*b*) of the Regulations, as enacted by subsection 4(1), shall be read as follows:

(*b*) the supplier's name or the name under which the supplier does business, and the registration number assigned to the supplier pursuant to section 241 of the Act;

and

(*b*) subparagraph 3(*f*)(i) of the Regulations, as enacted by subsection 4(3), shall be read without reference to "or the intermediary in respect of the supply".

6. Section 3 is deemed to have come into force on ANNOUNCEMENT DATE.

DRAFT REGULATIONS

1. Section 2 of the *Input Tax Credit Information Regulations* is amended by adding the following in alphabetical order:

"intermediary" of a person, in respect of a supply, means a registrant who causes or facilitates the making of the supply by the person; (*intermédiaire*)

2. (1) Subparagraph 3(*a*)(i) of the Regulations is replaced by the following:

(i) the supplier's name or the name under which the supplier does business or, where there is an intermediary in respect of the supply, the name of the intermediary or the name under which the intermediary does business,

(2) Subparagraph 3(*b*)(ii) of the Regulations is replaced by the following:

(ii) the registration number assigned under section 241 of the Act to the supplier or, where there is an intermediary in respect of the supply, to the intermediary,

3. Sections 1 and 2 apply to supplies made after ANNOUNCEMENT DATE.

Explanatory Notes

These explanatory notes are provided to assist in an understanding of the proposed amendments to the *Excise Tax Act*, the *Income Tax Act* and related Acts. These notes are intended for information purposes only and should not be construed as an official interpretation of the provisions they describe.

Cette publication est également offerte en français.

PREFACE

The Notice of Ways and Means Motion to which these explanatory notes relate contains proposed amendments to the *Excise Tax Act*, the *Income Tax Act* and related Acts. These amendments are intended to implement sales tax measures and, in addition, the legislation contains a number of technical amendments that clarify and, in some cases, correct the application of the *Excise Tax Act*.

The explanatory notes describe the proposed amendments, clause by clause, for the assistance of Members of Parliament and Senators, as well as taxpayers and their professional advisors.

It should be noted that amendments that are proposed to come into force on December 17, 1990, the day on which the legislation that enacted the Goods and Services Tax received Royal Assent, are described in these notes as having effect as of January 1, 1991, the day on which the tax was implemented.

The Honourable Paul Martin
Minister of Finance

PART I

EXCISE TAX ACT

Clause 1

Definitions

ETA
123

Subsection 123(1) defines a number of terms that apply for purposes of Part IX of the Act and Schedules V, VI and VII thereto.

For ease of reference, all of the amendments to definitions contained in subsection 123(1) are described below in alphabetical order.

"charity"

The definition "charity" is amended to exclude "public institutions", which are newly defined in subsection 123(1) as persons that are registered charities for purposes of the *Income Tax Act* and are school authorities, public colleges, universities, hospital authorities or persons determined by the Minister of National Revenue to be municipalities for purposes of Part IX of the *Excise Tax Act*. After 1996, all references to a "charity" will no longer include a reference to a public institution. Therefore, a provision that applies to a "charity" will not apply to a public institution unless otherwise specifically provided. Many of the provisions that apply to these organizations are in fact amended to make specific reference to "public institutions" and thereby maintain their current application. For example, section 2 of Part VI of Schedule V, which contains the existing general exemptions for supplies by a charity, is amended to apply only to "public institutions". New Part V.1 of Schedule V is added to set out the exemptions for charities, and that Part does not apply to public institutions.

The amended definition "charity" applies as of January 1, 1997. It also applies in relation to supplies made before that day for which consideration becomes due, or is paid without having become due, on or after that day.

"commercial activity"

The term "commercial activity" refers to those activities that are undertaken by a person that bring the person within the scope of the Goods and Services Tax (GST) system. Every person engaged in a commercial activity, other than small suppliers and certain non-residents, is required to register under the GST and collect and remit tax on supplies made in the course of a commercial activity. The registrant is also entitled to recover, through the input tax credit mechanism, tax paid on property and services acquired or imported for use in the commercial activity.

The amendments to paragraphs (*a*) and (*b*) of the definition "commercial activity" introduce a new profit test for a "personal trust", which is newly defined in subsection 123(1) (see commentary on the definition "personal trust"). The same test currently applies to proprietorships and partnerships, all the members of which are individuals. There must be a reasonable expectation of profit from the activities engaged in by such partnerships, proprietorships and personal trusts in order for the activities to be considered commercial activities.

This amendment comes into force on THE DAY AFTER ANNOUNCEMENT DATE.

"direct cost"

Part VI and new Part V.I of Schedule V set out the exemptions for supplies made by public service bodies (other than charities) and charities respectively. Section 6 of Part VI and paragraph 1(*d*) of new Part V.1 include an exemption for certain supplies made for nominal consideration – that is, consideration that does not equal or exceed the direct cost of the supplies.

The existing definition "direct cost" is found in section 1 of Part VI of Schedule V. That definition is repealed and replaced by the new definition in subsection 123(1). For goods produced or manufactured by a person, the term "direct cost" refers to the cost of the materials incorporated into the goods or expended in making them, excluding overhead costs. Where a person purchases goods or services for

resale, the direct cost of the goods or services is defined as the purchase price. In addition, in both cases, the direct cost includes any applicable Goods and Services Tax and any provincial sales tax or other tax that is prescribed for purposes of section 154.

The definition "direct cost" is amended to remove the reference to services other than those that are acquired for resale, as well as the references to admissions to a film, slide show or similar presentation. Sections 7 and 8 of Part VI of Schedule V, which contain the existing "direct cost" exemptions for supplies of these items, are repealed (see commentary on clause 108).

It should be noted that section 6 of Part VI of Schedule V is amended to exempt only those supplies made for "less than" direct cost whereas the existing section also exempts supplies that are made for consideration "equal to" direct cost (see commentary on clause 108).

The new definition "direct cost" comes into force on January 1, 1997 and also applies in relation to supplies made before that day for which consideration becomes due on or after that day, or is paid on or after that day without having become due.

"financial instrument"

The definition "financial instrument" is relevant to the definition "financial service". Existing paragraph (*d*) of the definition "financial instrument" includes an interest in a partnership or a trust or any right in respect of such an interest. The amendment to paragraph (*d*) adds a reference to an interest in an estate of a deceased individual. This clarifies that the supply of an interest in an estate or any right in respect of such an interest is a financial service.

This amendment is effective January 1, 1991.

"financial service"

Under existing paragraph (*j*) of the definition "financial service", insurance adjustment services that are supplied by insurers, marine adjusters or provincially licensed adjusters are treated as financial

services. Paragraph (*j*) is amended to extend this treatment to adjustment services that are supplied to an insurer or group of insurers by persons who are permitted by provincial laws to provide adjustment services without holding a licence for that purpose.

This change applies to supplies for which consideration becomes due or is paid without having become due after ANNOUNCEMENT DATE.

Another amendment to paragraph (*j*) clarifies that it applies only to an adjustment service that relates to a claim made under a property and casualty insurance policy. Adjustment services relating to a claim under a life or accident and sickness policy are taxable. This amendment applies to supplies for which any consideration becomes due after ANNOUNCEMENT DATE or is paid after that day without having become due. It also applies to any supply for which all of the consideration became due or was paid on or before that day unless the supplier did not charge or collect an amount as or on account of tax in respect of the supply, or tax was charged or collected but, before that day, an application for a rebate was received at a Revenue Canada office.

Paragraph (*j*.1) of the definition "financial service" is amended by the addition of the words "an insurer" to clarify and confirm the existing administrative practice of treating the provision of an appraisal to an "in-house" insurance adjuster of an insurance company as being a financial service.

The amendment applies to any supply for which consideration becomes due after ANNOUNCEMENT DATE or is paid after that day without having become due. It also applies to any supply for which all of the consideration became due or was paid on or before that day if the supply was treated as exempt (i.e., the supplier did not charge any amount as tax or the recipient paid an amount as tax and filed an application for a refund of the amount which was received at a Revenue Canada office before ANNOUNCEMENT DATE).

Due to a previous amendment, paragraph (*j*.1) of the definition "financial service" read differently in relation to services provided

before October 1992. That previous wording is also amended to include a reference to "an insurer".

The amendment to paragraph (*q*) of the definition "financial service" is intended to ensure that tax applies to management or administrative services provided to a corporation, trust or partnership whose principal activity is the investing of funds. This provision is also intended to ensure that the application of tax to such services is not circumvented by an "unbundling" of services provided to the entity. Therefore, the amended paragraph makes explicit reference to "any service" provided by a person who provides management or administrative services.

This amendment was proposed in a Notice of Ways and Means Motion on December 7, 1994. Representations on the Motion expressed the concern that the reference to "any service" might encompass the provision of a financial instrument. For example, a financial institution that provides management or administrative services to a mortgage fund might itself sell mortgages to the fund. Since it is not the intention to tax financial instruments, the sale of a financial instrument to the trust, corporation or partnership by the provider of the management or administrative service is explicitly excluded from paragraph (*q*).

This amendment applies to supplies for which any consideration becomes due or is paid after December 7, 1994. It also applies to supplies for which consideration became due or was paid on or before that day unless tax in respect of the supply was neither charged nor collected on or before that day.

"hospital authority"

The definition "hospital authority" is amended to remove the reference to a "part" of an organization. This amendment is consequential to the addition of subsection 259(4.1), which provides specific rebate apportionment rules for a selected public service body such as a hospital authority that undertakes a range of activities in different capacities (see commentary on subclause 69(6)).

The amendment comes into force on THE DAY AFTER ANNOUNCEMENT DATE.

"improvement"

The term "improvement" is defined in subsection 123(1) as it relates to capital property and in section 1 of Part I of Schedule V as it relates to real property. The amended definition "improvement" in subsection 123(1) combines both definitions and applies for all purposes of Part IX of the Act. The definition in the Schedule is repealed (see commentary on clause 85).

This amendment is effective on THE DAY AFTER ANNOUNCEMENT DATE.

"insurance policy"

Paragraph (*b*) of the definition" insurance policy" is amended to remove a redundant reference to "dental" insurance since the common industry definition of "accident and sickness" insurance already encompasses dental insurance.

This amendment is effective on January 1, 1991.

The definition "insurance policy" is also amended to add paragraph (*c*), which clarifies that construction bonds are treated in all cases as insurance policies. Specifically, bid bonds, maintenance bonds, labour and material bonds, and performance bonds related to construction projects are treated as insurance policies.

This amendment is effective January 1, 1991.

"*inter vivos* trust"

The new definition "*inter vivos* trust" is relevant for purposes of the definition "personal trust", (which is added to subsection 123(1)) and amended section 268. "*Inter vivos* trust" means a trust other than a testamentary trust. Therefore, an *inter vivos* trust is generally a trust other than one that has arisen on and as a consequence of the death of an individual.

This definition is effective January 1, 1991.

"mobile home"

The definition "mobile home" is relevant for purposes of the definitions "builder", "real property", "residential unit", "residential complex", "residential trailer park", "single unit residential complex". and "trailer park".

The existing definition "mobile home" is obsolete and restrictive in that it does not encompass all structures that are commonly known as "mobile homes". Specifically, the size requirement and the requirement that the structure be towed on its own wheels to a site do not reflect current designs of these homes.

The definition is therefore amended to remove these two requirements. In addition, the existing exclusion of a "vehicle or trailer for recreational use" may be too broad since virtually any home may be for recreational use. The definition is amended so that the exclusion applies to vehicles or trailers that are "designed" for recreational use. Finally, the existing exclusion of "free-standing appliances or furniture" sold with the mobile home is removed. This reference is unnecessary because such items would not be considered to be part of the mobile home in any event. Of course, where these are incidental to, and supplied together with, the home for a single consideration, section 138 applies to deem the appliances and furniture to be part of the mobile home.

These changes will enable builders of certain structures that are excluded from the existing definition of "mobile home" to credit purchasers for the amount of a new housing rebate in respect of these homes. In addition, these builders will be subject to the same rules as builders of other types of residential property, such as the self-supply rules under section 191.

Under subsection 254(2), the GST New Housing Rebate is available to purchasers of single unit residential complexes. Under subsection 254(4), an individual who purchases a mobile home from a builder may receive an immediate credit for the amount of the rebate, which may subsequently be deducted from the builder’s net tax.

A structure that does not qualify under the existing definition "mobile home" may qualify for a rebate for owner-built homes under section 256, provided that the structure qualifies as a "single unit residential complex" when affixed to land. However, the builder of such a structure would not currently be able to credit the amount of the rebate to the owner or purchaser because the structure would not qualify as a "single unit residential complex" at the time it is sold by the builder. The broadening of the definition "mobile home" will allow the rebate to be credited at the time of purchase in more instances.

This amendment is effective on THE DAY AFTER ANNOUNCEMENT DATE. However, the amendment will entitle builders to credit the amount of a new housing rebate in respect of a mobile home sold before that day where consideration for the home is invoiced or paid on or after that day.

A special transitional rule applies to the lease of a residential trailer park site on which a structure that newly qualifies as a mobile home is situated. In this case, two separate supplies would be deemed to occur under the lease. The first supply would be deemed to end on ANNOUNCEMENT DATE and the second supply begins the following day. As a result, the amendment to the definition "mobile home" does not retroactively cause a supply by way of lease to become exempt and a change in use of the site, if applicable, will be recognized only following ANNOUNCEMENT DATE. (Reference should also be made to section 198.1 for rules regarding changes of use of property as a result of an amendment to the Act.)

"non-profit organization"

The definition "non-profit organization" is amended to exclude a "public institution", which is newly defined in subsection 123(1) as a person that is a registered charity for purposes of the *Income Tax Act* and that is a hospital authority, university, public college, school authority or person determined by the Minister of National Revenue to be a municipality for purposes of Part IX of the *Excise Tax Act*. These entities are currently excluded from the definition "non-profit organization" by virtue of the fact that all charities are excluded. However, since the term "charity" is amended so that it no longer

encompasses "public institutions", a specific reference to the latter is required in order to continue to carve them out of the definition "non-profit organization".

The amended definition "non-profit organization" applies as of January 1, 1997. It also applies in relation to supplies made before that day for which consideration becomes due or is paid without having become due on or after that day.

"office"

Existing subsection 123(1) defines the term "officer" for purposes of Part IX of the Act. This definition is relevant for purposes of the definitions "business" and "service". For greater clarity and for consistency with the *Income Tax Act*, the definition "office" is added to subsection 123(1) and the term "officer" is redefined accordingly as a person who holds an office.

The term "office" has the meaning assigned by subsection 248(1) of the *Income Tax Act,* which is consistent with the existing definition of "officer" in subsection 123(1) of the *Excise Tax Act.* However, the new definition "office" excludes, for greater certainty, the position of trustee in bankruptcy and of receiver (including persons who are receivers within the meaning of subsection 266(1)). It also excludes the positions of trustee of a trust and personal representative of a deceased individual where the person’s remuneration for acting in that capacity is treated as business income for income tax purposes. This definition of "office" is consistent with the practice of treating persons holding these positions as supplying services in performing duties in their official capacities.

This amendment applies as of January 1, 1991.

"officer"

The definition "officer" is amended as a consequence of the addition of the definition "office" in subsection 123(1) (see commentary above). "Officer" is defined as a person holding an office.

This amendment applies as of January 1, 1991.

"person"

The definition "person" in the English version of subsection 123(1) is amended to clarify that the reference to an estate is a reference only to an "estate of a deceased individual" as opposed to other kinds of estates, such as the estate of a bankrupt.

This amendment applies as of January 1, 1991.

"personal representative"

The new definition "personal representative", which is essentially the same definition as "executor" in existing subsection 267(2), is added to subsection 123(1) to provide consistency in the terms used in the Act to describe an executor of a will or administrator of an estate of a deceased individual. The definition "personal representative" is relevant for the purposes of the trust and estate rules in new section 267.1 and in amended section 270 (see commentary on clauses 73 and 74 respectively).

This amendment applies as of January 1, 1991.

"personal trust"

The new definition "personal trust" is relevant for purposes of section 190 and the exemptions for sales of real property by trusts under section 9 of Part I of Schedule V, paragraph 1(*l*) of new Part V.1 of that Schedule and section 25 of Part VI of that Schedule. For trusts, the existing exemptions are limited to those whose beneficiaries are charities or individuals. The term "personal trust" is used in the amended exempting provisions (see commentary on clauses 90 and 102 and subclause 116(1)). The result is that the condition with respect to beneficiaries applies only to *inter vivos* trusts since the definition "personal trust" includes all testamentary trusts.

The effect of the amendment in section 9 of Part I of Schedule V is that sales of real property by a testamentary trust created on the death of an individual will receive the same treatment that would have applied had the individual sold the property before the individual’s

death. This change applies to sales made after ANNOUNCEMENT DATE. It also applies to sales made on or before that day unless the supplier charged or collected an amount as or on account of tax in respect of the supply before that day.

Another effect of using the term "personal trust" in the exempting provision is to restrict the exemption, in the case of *inter vivos* trusts, to cases where no beneficial interest in the trust is acquired for consideration payable to the trust or to persons who have made a contribution to the trust by way of transfer, assignment or other disposition of property. This restriction in respect of *inter vivos* trusts applies only to sales made after ANNOUNCEMENT DATE.

The definition "personal trust" is also used in the amended definition "commercial activity" in subsection 123(1) (see commentary on the definition "commercial activity"). As of THE DAY AFTER ANNOUNCEMENT DATE, the profit test in that definition that applies to individuals and certain partnerships also applies to personal trusts.

"public college"

The amendment to the definition "public college" clarifies that, to qualify as such, an organization must receive funding from a government or municipality to support the ongoing delivery of educational services by the organization to the general public. This contrasts with monies that are paid to an organization under special agreements between the organization and a government or municipality for the provision of training to a particular group of students. For example, funding under a program such as the Canadian Jobs Strategy program would not satisfy the criteria of being paid to support the ongoing delivery of educational services to the general public.

The definition "public college" is also amended to remove the reference to "part" of an organization. This amendment is consequential to the addition of subsection 259(4.1), which provides specific rebate apportionment rules for selected public service bodies, such as public colleges, that undertake a range of activities in different capacities (see commentary on subclause 69(6)).

The amended definition "public college" applies for purposes of determining any rebate under section 259 for which an application is filed at a Revenue Canada office on or after ANNOUNCEMENT DATE. For all other purposes, the amendment applies as of January 1, 1997.

"public institution"

The definition "public institution" is added to refer to a person that is both a registered charity within the meaning of the *Income Tax Act* and either a hospital authority, public college, school authority, university (all within the meaning of subsection 123(1)) or person determined by the Minister of National Revenue to be a municipality for all purposes of Part IX.

"Public institutions" are excluded from the amended definition "charity" in subsection 123(1) (see the commentary above on that definition). Therefore, after 1996, any reference to "charity" in Part IX will no longer include a reference to the organizations newly defined as public institutions. However, most of the provisions that apply to charities under the existing legislation are amended to continue to apply to public institutions by explicit reference to the latter. For example, existing section 2 of Part VI of Schedule V (the general exemptions for supplies by charities) is amended to apply only to public institutions. Separate rules for "charities" are set out in new Part V.1 of Schedule V (see commentary on clause 102).

The definition "public institution" comes into force on January 1, 1997. Any person who, on that day, falls within that definition will be subject to the rules relating to public institutions, as opposed to charities, in relation to any supply for which consideration becomes due or is paid without having become due on or after that day. For example, the exemption for supplies of parking spaces by charities provided for under new Part V.1 of Schedule V would not apply to a person who is a registered charity for income tax purposes but who is defined to be a public institution if the consideration for the supplies becomes due to the person after 1996, even if the agreement for the supply was entered into before 1997. In that case, the supply would continue to be taxable.

"residential complex"

The definition "residential complex" is relevant to, among other things, the determination of whether supplies of accommodation qualify for exemption under Part I of Schedule V to the Act. One of the criteria used to determine whether a building or part of a building is a residential complex for this purpose is whether the building or part constitutes a hotel, motel, inn or similar premises and all or substantially all of the supplies by way of lease, licence or similar arrangement in the building or part are made for periods of less than sixty days. The amendment to the definition "residential complex" clarifies that the test is based on periods of continuous use or possession.

This clarification is consistent with similar wording changes made to the definitions "residential trailer park" in subsection 123(1) and "long-term lease" in subsection 254.1(1) as well as to sections 6, 7 and 8.1 of Part I of Schedule V and subparagraph 25(*f*)(i) of Part VI of that Schedule.

For consistency, these wording changes are all effective on, or in relation to supplies made on or after, September 15, 1992, the date as of which subparagraph 25(*f*)(i) was last amended. However, these amendments do not apply for the purposes of determining any amount claimed in a return under Division V, or in an application under Division VI, that was received at a Revenue Canada office before ANNOUNCEMENT DATE.

Since the definition "residential complex" was previously amended, as of September 30, 1992, the wording of that definition between September 15, 1992 and September 30, 1992 is, for consistency, also amended to refer to "continuous possession or use".

"residential trailer park"

The definition "residential trailer park" is relevant for purposes of determining whether a lease of a site in a trailer park, or a sale of a trailer park, qualifies for exemption under Part I of Schedule V to the Act. One of the criteria used to determine whether a trailer park qualifies as a residential trailer park for this purpose is whether the

park operator intends to give possession or use of the trailer sites for periods of at least one month in the case of mobile homes and other residential units and twelve months in the case of travel trailers, motor homes and other similar units. The amendment to the definition "residential trailer park" clarifies that the test is based on periods of continuous use or possession.

This clarification is consistent with similar wording changes made to the definitions "residential complex" in subsection 123(1) and "long-term lease" in subsection 254.1(1) as well as to sections 6, 7 and 8.1 of Part I of Schedule V and subparagraph 25(*f*)(i) of Part VI of that Schedule.

For consistency, these wording changes all apply on, or in relation to supplies made on or after, September 15, 1992, the date as of which subparagraph 25(*f*)(i) was last amended. However, these amendments do not apply for the purposes of determining any amount claimed in a return under Division V, or in an application under Division VI, that was received at a Revenue Canada office before ANNOUNCEMENT DATE.

"residential unit"

This definition is amended to replace the expressions "elderly persons" and "infirm persons" with the more generally accepted expressions "seniors" and "individuals with a disability".

This change comes into force on Royal Assent.

"school authority"

The definition "school authority" is amended to remove the reference to "part" of an organization. This amendment is consequential to the addition of subsection 259(4.1), which provides specific rebate apportionment rules for a selected public service body such as a school authority that undertakes a range of activities in different capacities (see commentary on subclause 69(6)).

This amendment comes into force on THE DAY AFTER ANNOUNCEMENT DATE.

"self-contained domestic establishment"

This definition is being added for purposes of subsection 191(7), which relates to remote work sites, and new paragraph (*a*.1) of subsection 170(1), which limits the availability of input tax credits in respect of expenses incurred in relation to home office expenses, consistent with limitations on deductions for income tax purposes. The definition "self-contained domestic establishment" has the meaning assigned by subsection 248(1) of the *Income Tax Act*.

This definition applies as of January 1, 1991.

"short-term accommodation"

The definition "short-term accommodation" in subsection 123(1) is amended to amalgamate it and the definition of that term that is found in existing subsection 252.1(1). The latter provision adds to, and excludes from, the definition "short-term accommodation" certain types of accommodation only for purposes of determining rebates payable to non-resident persons under sections 252.1 and 252.4.

The definition is also amended to exclude, for purposes of those non-resident rebates, residential complexes or units supplied under a timeshare arrangement. Therefore, GST paid on the acquisition of a timeshare right will not be rebatable. The rebates were designed to promote Canada as a tourist destination and site for foreign business conventions. Timeshare rights are commonly acquired for investment purposes.

This amendment applies for purposes of determining any rebate under section 252.1 or 252.4 for which an application is received at a Revenue Canada office on or after ANNOUNCEMENT DATE.

Wording changes are also reflected in the amended definition to clarify that a supply of a residential complex or unit by way of lease, licence or similar arrangement constitutes a supply of "short-term" accommodation if the period of "continuous" occupancy of the complex or unit by the individual for whom the accommodation was acquired is less than one month.

This clarification is consistent with similar wording changes made to the definitions "residential complex" and "residential trailer park" in subsection 123(1) and "long-term lease" in subsection 254.1(1) as well as to sections 6, 7 and 8.1 of Part I of Schedule V and subparagraph 25(*f*)(i) of Part VI of that Schedule. For consistency, these wording changes are generally effective on, or in relation to supplies made on or after, September 15, 1992, the date as of which the latter subparagraph was last amended.

"telecommunication service"

The definition "telecommunication service" is added to subsection 123(1). This definition is relevant for purposes of the place of supply rules in new section 142.1 and the zero-rating provision in new section 22.1 of Part V of Schedule VI (see commentary on clauses 7 and 145 respectively).

The definition encompasses such services as local and long-distance telephone services, cable and pay television, facsimiles and electronic mail, video, audio and computer link-ups and data transmission. The definition also specifies that providing access to a telecommunications facility such as a dedicated line is a telecommunication service whether or not the facility is used.

A distinction must be made between telecommunication services and services delivered by means of telecommunications. The definition does not include services that are related to telecommunication services, such as translation services, charges for the relocation of services, 1-900 numbers, wire news services or directory assistance. For example, an individual dialling a 1-900 number for information is billed for the service of receiving the requested information, not for a telecommunication service. The provider of the information service is the consumer of the telecommunication service, which is a means of delivering the information.

The definition applies in relation to services supplied after ANNOUNCEMENT DATE.

"telecommunications facility"

The definition "telecommunications facility" is added to subsection 123(1). A telecommunications facility is any facility, apparatus or other thing that is used or is capable of being used for telecommunications. The definition is broad in scope, including items such as satellites, downlink and uplink earth stations, fibre-optic transmission systems, telephones and fax machines.

This definition is relevant for purposes of the new definition "telecommunication service" in subsection 123(1), the place of supply rules in new section 142.1, as well as new section 22.1 of Part V of Schedule VI (see the commentary on the definition "telecommunication service" as well as the commentary on clauses 7 and 145).

This definition applies in relation to supplies made after ANNOUNCEMENT DATE.

"testamentary trust"

The new definition "testamentary trust" is relevant for purposes of the definition "personal trust", which is also added in subsection 123(1), and the definition "settlor" in new subsection 9(1) of Part I of Schedule V. "Testamentary trust" has the meaning assigned by subsection 248(1) of the *Income Tax Act*, which refers to the definition in subsection 108(1) of that Act. A "testamentary trust" is a trust or estate arising as a consequence of the death of an individual, with certain additional criteria relating to the contribution of property by a person other than an individual.

This definition is effective January 1, 1991.

"university"

The definition "university" is amended to remove the reference to "part" of an organization. This amendment is consequential to the addition of subsection 259(4.1), which provides specific rebate apportionment rules for a selected public service body such as a

university that undertakes a range of activities in different capacities (see commentary on subclause 69(6)).

This amendment comes into force on THE DAY AFTER ANNOUNCEMENT DATE.

"used tangible personal property"

The expression "used tangible personal property" refers to tangible personal property that has, at any time, been used in Canada. This definition is amended to remove any reference to "used specified tangible personal property" as that expression will no longer be used in the Act. Under the existing legislation, the expression is relevant for purposes of section 176 (purchase of used goods), which is being amended to, among other things, remove all special rules for used specified tangible personal property (see commentary on clause 25). The expression is also used in existing sections 183 and 184 in relation to the rules governing supplies of such property by creditors and insurers respectively. Those rules are being amended to refer to all specified tangible personal property as opposed to referring only to such property that is used (see commentary on clauses 33 and 34).

The amendment to the definition is effective on THE DAY AFTER ANNOUNCEMENT DATE.

Clause 2

Person Resident in Canada

ETA
132(1)

The country in which a supplier or recipient of a supply resides is relevant to the application of a number of provisions in Part IX of the Act. For example, certain supplies are zero-rated under Part V of Schedule VI as exports where they are made to non-resident persons. In addition, non-residents are entitled to a rebate of tax paid on exported goods under section 252 and on accommodation under section 252.1.

Existing section 132 deals with the question of residency for GST purposes. The determination of residency is ordinarily based on criteria established by jurisprudence. Nonetheless, section 132 sets out certain special rules for particular circumstances.

New paragraph 132(1)(*d*) deems those individuals who are deemed to be resident in Canada under subsection 250(1) of the *Income Tax Act*, other than sojourners deemed resident by virtue of paragraph (*a*) of that subsection, to be resident in Canada for GST purposes. This amendment ensures that government personnel living abroad will be treated as residents of Canada for GST purposes.

This amendment applies after ANNOUNCEMENT DATE.

Clause 3

Sponsorships of Public Sector Bodies

ETA
135

Existing section 135 of the Act provides that where a public service body supplies a service (other than certain advertising services), or a right to use a copyright, trade-mark, trade-name or other similar property, to a sponsor of an activity of the body in order to publicize the sponsor’s business, the public service body is deemed not to be making a supply for GST purposes. Prior to the amendment to the definition "non-profit organization", which applied after September 1992, section 135 applied to agents of the Crown that operated on a not-for-profit basis. However, the amendment to that definition explicitly excluded such agents from being considered "non-profit organizations". This had the unintentional effect of excluding them from the application of section 135. The section is therefore amended to apply to "public sector bodies" which includes governments and Crown agents.

This amendment applies to supplies made after September 1992.

Clause 4

Combined Supply of Real Property

ETA
136(2)

Subsection 136(2) provides that, where a supply is made of real property that includes a residential complex and other real property, the provision of the residential complex is treated as a separate supply. This ensures that, if the residential complex would have been exempt under Part I of Schedule V when supplied on its own, it will be exempt when supplied together with taxable real property.

The amendment extends this rule to a supply of real property that includes a residential trailer park and other real property.

This amendment is effective January 1, 1991.

Clause 5

Input Apportionment Rules

ETA
141.01

Subsection 141.01(1) Meaning of "endeavour"

The term "endeavour" is defined in subsection 141.01(1) for purposes of subsections 141.01(2) to (4), which set out rules for determining the extent to which property and services used in "endeavours" are used in commercial and non-commercial activities.
Paragraph 141.01(1)(*a*) is amended to delete the exclusion for businesses that do not involve or intend to involve the making of supplies. Consequently, such activities are subject to the rules of section 141.01, which provide that inputs to activities that do not involve the making of supplies are not considered to be for consumption, use or supply in the course of a commercial activity and therefore are not eligible for input tax credits. For example, a

non-profit organization that is involved in lobbying for particular causes but that does not make supplies would not be entitled to claim input tax credits.

This amendment applies as of THE DAY AFTER ANNOUNCEMENT DATE.

Subsection 141.01(1.1) Meaning of "consideration"

The rules in section 141.01 are amended to stipulate that the taxable supplies referred to therein are those that are made for consideration (see commentary below on subsections (2), (3) and (5)). New subsection 141.01(1.1) provides that supplies for nominal consideration are to be treated the same as supplies for no consideration since the reference to "consideration" does not include a reference to nominal consideration.

The subsection applies as of January 1, 1991.

Subsection 141.01(1.2) Grants and Subsidies

The amendments to subsections 141.01(2), (3) and (5) described below clarify that it is only the making of taxable supplies for consideration that gives rise to input tax credit entitlements. However, this would unintentionally restrict the input tax credit entitlements of certain grant recipients who incur expenses in carrying out activities that are fully funded by grants or subsidies, such as individual consultants providing counselling services to eligible recipients under a government employment program. New subsection 141.01(1.2) ensures that these grant recipients are entitled to claim input tax credits in respect of their activities that involve the making of taxable supplies. This is consistent with the general policy that the receipt of grants and subsidies should not affect a registrant’s input tax credit entitlement.

New subsection 141.01(1.2) applies as of January 1, 1991.

Subsections 141.01(2), (3) and (5) Apportionment Rules

Section 141.01 is amended by specifying that the "taxable supplies" referred to in subsections 141.01(2), (3) and (5) are supplies made "for consideration". This reinforces the basic pro-rating rule followed by businesses that make exempt supplies. Specifically, they must look to the taxable and exempt output of their business in determining their input tax credit entitlement. They are entitled to claim input tax credits in respect of their business inputs only to the extent that those inputs are acquired or imported for the purpose of making taxable supplies for consideration in the course of their business. Pursuant to subsection 141.01(4), however, there may be an entitlement to input tax credits in relation to property or services supplied for nominal (or nil) consideration (referred to as "free supplies") depending on the purpose for which the free supply is made.

These amendments are effective January 1, 1991. A consequential amendment is also made under clause 159 to amend the coming-into-force provision for subsection 141.01(4) so that it is also effective as of January 1, 1991.

Clause 6

Place of Supply

ETA
142

Section 142 sets out the general rules for determining when a supply is made in or outside Canada. The section is amended with respect to the rules relating to intangible personal property and telecommunication services.

Subclause 6(1)

Intangible Personal Property

ETA
142(1)(*c*)(i)

Existing paragraph 142(1)(*c*) deems a supply of intangible personal property such as intellectual property to be made in Canada if the property may be used in whole or in part in Canada, and the recipient of the supply is either resident in Canada or is registered under the GST. The existing rule does not address the situation where a supply of intangible personal property may be used in whole or in part in Canada, and the recipient of the supply is an unregistered non-resident person.

The amendment to subparagraph 142(1)(*c*)(i) removes the reference to a person resident in Canada or registered for the GST so that the determination of the place of supply for intangible personal property is based only on use in whole or in part in Canada.

This amendment applies to supplies made after ANNOUNCEMENT DATE.

Subclauses 6(2) and (3)

Place of Supply of a Telecommunication Service

ETA
142(1)(*e*) and 142(2)(*e*)

Existing paragraphs 142(1)(*e*) and (2)(*e*) set out the general rules for determining whether a supply of a telecommunication service is made in or outside Canada. The amendment repeals both paragraphs. New section 142.1 sets out the place of supply rules for telecommunication services, which are newly defined in subsection 123(1) (see commentary on clause 7).

The amendment applies to supplies made after ANNOUNCEMENT DATE.

Clause 7

Telecommunication Services – Place of Supply Rules

ETA
142.1

New section 142.1 sets out the place of supply rules for telecommunication services, which are newly defined in subsection 123(1) (see commentary on the definition "telecommunication service" under clause 1).

Subsection 142.1(1) Billing Location

New subsection 142.1(1) provides rules for determining when the "billing location" for a telecommunication service is considered to be in Canada. The billing location is, in some cases, relevant to the determination of the place of supply of the telecommunication service under subsection 142.1(2).

The billing location for a telecommunication service is considered to be in Canada if the fee for the service is charged or applied by the telecommunications company to an account of the recipient that relates to a telecommunications facility ordinarily located in Canada. The term "telecommunications facility" is defined in subsection 123(1) (see commentary on the definition of that term under clause 1). The billing location is not necessarily the billing address or the place to which the invoice is sent. For example, if a business traveller made a long-distance call from a telephone in the United States and used a calling card to have the call charged to the business' number in Canada, the billing location would be considered to be in Canada, even if the business had arranged to have its telephone billings sent to its U.S. branch office for processing.

Where the fee for the service is not charged or applied to an account that the recipient has with the telecommunications company, the billing location is considered to be in Canada if the telecommunications facility used to initiate the service is located in Canada. For example, if a telephone call is paid for by depositing

coins in a pay phone or by using a credit card issued by a financial institution, the billing location for the call would be in Canada if the telephone used by the caller is in Canada.

It should be noted that the fact that a billing location for a service is not in Canada does not necessarily mean that the supply of the service is not made in Canada. Under the place of supply rules described below, the billing location is a factor only where the telecommunication is not both emitted and received in Canada. For example, if a person were to make a long-distance call from one place in Canada to another place in Canada but charged it to a number in the United States using a calling card, the supply would be considered to be made in Canada and would therefore be taxable, regardless of the fact that the billing location was not in Canada.

Subsection 142.1(2) Place of Supply

New subsection 142.1(2) sets out the rules for determining when a supply of a telecommunication service is made in Canada.

New paragraph 142.1(2)(*a*) provides that, where the telecommunication service consists of making a telecommunications facility available for use, the supply of the service is made in Canada if the facility or any part of the facility is located in Canada. This applies whether or not the telecommunications facility is used. Thus, the supply of a dedicated line that is partly located in Canada is a supply of a telecommunication service made in Canada.

New subparagraph 142.1(2)(*b*)(i) provides that, in the case of a telecommunication service other than the supply of the facilities, the service is considered to be supplied in Canada when the telecommunication is both emitted and received in Canada. For example, a telephone call from one location in Canada to another location in Canada is a supply made in Canada, even if the telecommunications facility used to make the call is normally located outside Canada (such as a cellular phone with a non-Canadian billing location).

New subparagraph 142.1(2)(*b*)(ii) provides that a supply of a telecommunication service is made in Canada when the

telecommunication is either emitted or received in Canada, and the billing location is in Canada.

New section 142.1 applies to services supplied after ANNOUNCEMENT DATE.

Clause 8

Partnerships

ETA
145

Existing section 145 sets out certain rules with respect to partnerships. This section is repealed and replaced by amended and more comprehensive rules in new section 272.1 (see commentary on clause 76).

The repeal of section 145 applies as of THE DAY AFTER ANNOUNCEMENT DATE.

Clause 9

Small Suppliers

ETA
148

This section sets out the rules to determine whether a supplier qualifies as a "small supplier" for purposes of Part IX of the Act. Small suppliers are relieved from the requirement to register for GST purposes. Those who choose not to register do not have to charge and remit GST, and they are not entitled to input tax credits.

Generally, public service bodies (as defined in subsection 123(1)) qualify as "small suppliers" if they make $30,000 or less in taxable supplies per year. Paragraph 148(1)(*b*) is amended to increase this threshold to $50,000 or less in taxable supplies per year. Public

service bodies that have branches or divisions designated as eligible divisions under section 129 may continue to apply this test on a branch-by-branch basis.

Existing subsection 148(2) provides that where the amount of taxable supplies made by a person and its associates exceeds the threshold of $30,000 at any time during a calendar quarter, the person ceases to be treated as a small supplier immediately before that time and will not be a small supplier for the remainder of the quarter. Consistent with the amendment to paragraph 148(1)(*b*), this threshold is also increased to $50,000.

The amendments come into force on ANNOUNCEMENT DATE. Reference should be made to the transitional rules set out in clauses 150 and 151 relating to the de-registration of public service bodies and the designation of small supplier divisions.

Clause 10

Charities and Public Institutions as Small Suppliers

ETA
148.1

This section provides an additional test to the one set out in section 148 under which a charity may qualify as a "small supplier" for purposes of Part IX of the Act. Small suppliers are relieved from the requirement to register for purposes of the tax. Those who choose not to register do not have to charge and remit GST, and they are not entitled to input tax credits.

Subsection 148.1(2) is amended as a consequence of the amended definition "charity", which excludes "public institutions". A public institution is newly defined in subsection 123(1) as a person that is a registered charity for purposes of the *Income Tax Act* and that is a university, public college, school authority, hospital authority or person determined by the Minister of National Revenue to be a municipality for purposes of Part IX of the *Excise Tax Act* (see commentary on the definitions "charity" and "public institution" under

clause 1). Specific reference is made to public institutions in subsection 148.1(2) to ensure that they continue to be eligible to be small suppliers under section 148.1.

The reference to "public institution" is added as of January 1, 1997.

Section 148.1 is further amended to increase the threshold level of gross revenue below which charities and public institutions qualify as small suppliers. Under existing section 148.1, charities having annual gross revenue in the preceding year of $175,000 or less qualify as "small suppliers". This test is easier for charities to apply than the test under section 148 because it is based only on their gross revenue as determined for income tax reporting purposes. Charities and public institutions can qualify as small suppliers under this test or under the test set out in section 148, and they are not required to meet both tests to qualify. The amendment to section 148.1 increases the gross revenue threshold to $250,000 per year.

This amendment applies as of ANNOUNCEMENT DATE.

Clause 11

Financial Institutions

ETA
149

Section 149 sets out rules for determining whether a person will be treated as a financial institution for the purposes of Part IX of the Act. Financial institutions are given special treatment under various provisions of that Part such as the change-in-use rules for capital property, the election under section 150 with respect to supplies between closely related corporations, and the rules in section 185 affecting entitlement to input tax credits for inputs used in the provision of financial services relating to commercial activities.

Under subsection 149(1), there are two categories of financial institutions, those that are described in paragraph 149(1)(*a*) (referred to as "listed financial institutions") and those that meet a "*de minimis*"

threshold test under paragraph 149(1)(*b*). The subsection is amended to create two categories of "*de minimis*" financial institutions under amended paragraph 149(1)(*b*) and new paragraph 149(1)(*c*).

Subclause 11(1)

De Minimis Financial Institutions

ETA
149(1)(*b*) and (*c*)

Under existing paragraph 149(1)(*b*), a person is treated as a financial institution throughout a taxation year of the person if the person's income for income tax purposes in the preceding year from interest and dividends and separate fees or charges for financial services exceeded either $10 million or 10 per cent of the total of the person's income from such sources and from supplies other than sales of capital property and financial services. For purposes of this test, a person's income excludes certain types of dividends and, for individuals, is limited to such income from a business. This test is amended so that the total income from such dividends, interest and fees or charges for financial services in the preceding year must exceed both $10 million and 10 per cent of the registrant's total income so defined.

This amendment has the effect of raising the threshold and therefore reducing the number of persons that would fall into the category of financial institution under the *de minimis* test in paragraph 149(1)(*b*). However, a person might still qualify as a financial institution under a new test that is added in paragraph 149(1)(*c*).

The new *de minimis* test in paragraph 149(1)(*c*) looks to the type of financial revenue earned by a person. A person will be considered a financial institution throughout a taxation year of the person if the person's income comprised of interest, fees or other charges, in respect of credit cards or charge cards issued by the person and loans, advances or credit granted by the person, exceeded $1 million in the preceding year. For this purpose, the allowance of an interest-free period between the billing date for an account receivable and the date on which payment is due would not be considered the granting of

credit. As well, penalties levied by a vendor for late payment of an account receivable generated in the normal course of the vendor's business would not be considered to be a charge for the provision of credit. The acceptance of a debt that is supported by a negotiable instrument, such as a promissory note, or by a conditional sales agreement is an example of what would be considered the provision of credit.

Whether a person is considered to be a financial institution because of paragraph 149(1)(*b*) or new paragraph 149(1)(*c*) will affect the extent to which the person will be entitled to claim input tax credits in respect of inputs used in the provision of financial services. As under the existing rules, a person that meets the test under paragraph 149(1)(*b*) will not be able to claim input tax credits in respect of property or services to the extent that these are for consumption, use or supply in the provision of any exempt financial service.

As a result of amendments to sections 185 and 198, however, persons that are financial institutions only because of new paragraph 149(1)(*c*) will be able to claim input tax credits in respect of inputs used in the provision of financial services related to their commercial activities except to the extent that the inputs are for consumption, use or supply in the course of activities that involve the granting of advances, loans or credit or in the course of activities that relate to credit cards or charge cards issued by them (see commentary on clauses 35 and 40 for explanation of amendments to sections 185 and 198 respectively).

These amendments apply to taxation years beginning after ANNOUNCEMENT DATE.

Subclause 11(2)

Exclusions

ETA
149(4) and (4.1)

Existing subsection 149(4) provides that, in determining whether a person is a financial institution based on the threshold test under

paragraph 149(1)(*b*), interest and dividends from related corporations are to be ignored in calculating the total financial income under subparagraph (i) of that paragraph. The amendment to this subsection is consequential to the amendments to subsection 149(1) and will apply the same rule for purposes of the calculation under new paragraph 149(1)(*c*).

New subsection 149(4.1) replicates the rule, found under the preamble to existing paragraph 149(1)(*b*), that charities, non-profit organizations treated like charities under section 259, municipalities, school authorities, hospital authorities, public colleges, universities and qualifying non-profit organizations are excluded from the "*de minimis*" financial institution category.

These amendments apply to taxation years beginning after ANNOUNCEMENT DATE.

Clause 12

Election for Exempt Supplies

ETA
150

Section 150 entitles two corporations that are members of the same closely related group that includes a listed financial institution (i.e., those described in paragraph 149(1)(*a*) of the Act) to make an election to treat certain supplies of property and services between them as exempt supplies of financial services. The effect is that the supplying member bears the tax on any inputs attributable to the provision of the property or services to the related member. The supplying member is not entitled to claim input tax credits in respect of those inputs and does not charge tax to the related member.

This election is not intended to exempt "imported taxable supplies" (as defined in section 217), which are subject to tax under Division IV on a self-assessment basis. Applying the closely-related group election to those supplies would result in both parties to the election avoiding tax altogether, thereby creating a bias in favour of

importing over acquiring inputs domestically. For this reason, existing subsection 150(1) does not apply for the purposes of Division IV of the Act. The amendment to section 150 is intended merely to clarify this exception. The reference to Division IV in subsection 150(1) is substituted with an exclusion for imported taxable supplies in subsection 150(2).

It should be noted that, while the imported supply received by an importer who is a party to an election under section 150 is not itself exempt, any re-supply of an imported service to another party to the election continues to be treated as an exempt supply of a financial service. Therefore, the importer is engaged in the making of an exempt supply and, as such, is subject to the self-assessment rules under Division IV with respect to the imported service.

The amendment to section 150 applies to payments for imported taxable supplies that become due or are made without having become due after December 7, 1994. Where one or more payments for a supply became due on or before that day and further payments for the same supply become due, or are made without having become due, after that day, the amendment applies only to the latter payments.

Clause 13

Used Tangible Personal Property Trade-Ins

ETA
153(4)

New subsection 153(4) provides that, where a supplier who is a registrant accepts a used good (or a leasehold interest therein) as full or partial consideration for another good, the supplier has to collect GST only on the *net* value if the property being accepted as a trade-in is for consumption, use or supply by the supplier in the course of commercial activities and the person trading-in the property is not required to collect GST on it. For example, a car dealer who accepts a trade-in from a consumer as partial consideration for a new car will charge tax only on the difference between the value of the new car and the value of the used car.

When a good is traded-in by a registrant who is required to charge tax, the existing rules apply. The trade-in is treated as two transactions – a sale by the registrant of a used good and a sale by the supplier of the new good – and GST is collectible in respect of both supplies.

The new trade-in rule is added as a consequence of the amendment to section 176, which eliminates notional input tax credits except for certain returnable containers (see commentary on clause 25). Charging GST on the net value prevents tax cascading when a used good, for which no input tax credit was claimed, is accepted as a trade-in by a supplier and is subsequently resold on a taxable basis.

If the supplier and recipient are not dealing with each other at arm's length and the value attributed to the used good is greater than its fair market value, the GST is to be applied to the difference between the value of the new good and the fair market value of the good being traded-in.

The amendment applies to supplies made after ANNOUNCEMENT DATE.

Clause 14

Taxes, Duties and Fees

ETA
154

Section 154 provides that, for purposes of determining the GST payable on a supply of property or a service, the consideration for the supply includes all federal and provincial taxes, duties and fees that are imposed either on the supplier or on the recipient in respect of that property or service but excludes a tax, duty or fee prescribed under the *Taxes, Duties and Fees (GST) Regulations*.

Section 154 is amended to clarify that the prescribed taxes, duties and fees in issue for exclusion from the consideration for a supply are those that are payable by the recipient of the supply. Taxes applied

earlier in the chain – for example, on the manufacturer – form part of the cost of the property or service and are built into the consideration for the supply.

In addition, section 154 is amended to clarify that taxes, duties or fees that are collectible by a vendor at any level of the marketing chain also form part of the consideration for the supply by the vendor, even though they are imposed on the final consumer, unless they are specifically prescribed under the section. For example, taxes on tobacco and gasoline payable by final consumers are pre-collected by wholesalers and are subject to the GST at the time they become collectible.

These amendments are effective January 1, 1991.

Clause 15

Non-Arm's Length Supplies

ETA
155

Subsection 155(1) provides an anti-avoidance rule whereby certain non-arm's length supplies made for less than fair market value or for no consideration are deemed to have been made for fair market value.

Subsection 155(2) is amended to clarify that this anti-avoidance rule does not apply to supplies to employees or shareholders or persons related thereto when the supply gives rise to a taxable benefit in respect of which GST is remittable under section 173. As a result, the GST remittance is determined on the basis of the employee benefit rules under section 173 and not under section 155.

Subsection 155(2) is also amended to clarify that the anti-avoidance rule does not apply in situations where subsection 170(1) or 172(2) would otherwise apply. These provisions deal with cases where property or services are acquired or appropriated by a person for certain individuals with whom the person is not dealing at arm's length. They apply only to the extent that a taxable supply of the

property or service is not made for consideration equal to its fair market value.

The amendments relating to sections 170, 172 and 173 apply to supplies made after ANNOUNCEMENT DATE.

Existing subsection 155(2) also provides that the anti-avoidance rule does not apply to supplies that are otherwise exempt under any of sections 6 to 10 of Part VI of Schedule V, which contain the nominal consideration exemptions applicable to public sector bodies. This subsection is amended to also refer to sections 1 and 5 of new Part V.1 of Schedule V, which set out the amended exemptions for charities (see commentary on clause 102). In addition, reference to sections 7 and 8 of Part VI of that Schedule is removed as a consequence of the repeal of those sections (see commentary on clause 108).

This amendment applies with respect to supplies for which any consideration becomes due on or after January 1, 1997 or is paid on or after that day without having become due.

Clause 16

Donations to Charities and Registered Parties

ETA
164

Existing section 164 provides that, where a charity or a registered party makes a supply of a right of admission to a dinner, ball, concert or similar fund-raising event, no GST applies on the portion of the admission price that can reasonably be considered a gift or contribution. In these cases, "charity" refers to a registered charity or a registered Canadian amateur athletic association within the meaning of the *Income Tax Act*, while "registered party" includes a political party, local party association, candidate or referendum committee. This section also excludes from the tax the portion of the price of other property or services supplied by a registered party for which a

political contribution deduction or tax credit can be claimed for income tax purposes.

This provision is repealed. In its place, an exemption is provided covering the entire price of admissions where a charitable receipt could be issued, or a political contribution deduction taken, for income tax purposes. In addition, an exemption is added to cover the entire purchase price of other property or services where any portion of the price can reasonably be considered a political contribution for income tax purposes. The exemptions applicable to charities, public institutions (as newly defined in subsection 123(1)) and registered parties are set out in section 2 of new Part V.1 of Schedule V, and sections 3 and 18 of Part VI of that Schedule respectively (see commentary on clauses 102, 105, and 113 respectively).

The amendment applies to supplies made on or after January 1, 1997 but does not apply to admissions to events for which any admissions have been supplied before that day.

Clause 17

Imposition and Computation of Tax

ETA
165

Section 165 imposes tax on recipients of taxable supplies and sets out rules for how to compute the tax in special cases.

Subclause 17(1)

Pay Telephone Services

ETA
165(3)

Subsection 165(3) contains special rules for calculating the amount of GST payable on telephone services paid for by depositing coins into a coin-operated telephone. The tax is zero where the amount

deposited is less than 70 cents. The amended subsection provides that the tax is zero where the amount deposited is 25 cents or less. In other cases, the tax is calculated as 7 per cent of the amount deposited but where the resulting product is a multiple of 5 cents and a fraction of 5 cents, the product is rounded to the nearest 5 cents.

This amendment applies to any call placed at a coin-operated telephone and paid for by depositing coins in the phone after ANNOUNCEMENT DATE.

Subclause 17(2)

Coin-Operated Devices

ETA
165(3.1)

New subsection 165(3.1) provides rules for calculating the amount of tax payable on goods or services supplied through mechanical coin-operated devices that are built in such a way that they can accept only a single coin as the total consideration for the supply.

Under these rules, the tax payable for the supply is zero where the tax otherwise determined in accordance with the general rules of the legislation is less then 2.5 cents, and is 5 cents where the tax otherwise determined is 2.5 cents or more but less than 5 cents. Tax is rounded to the nearest cent where the tax otherwise determined is 5 cents or more.

The amendment applies to supplies made after ANNOUNCEMENT DATE. Due to the operation of section 160, the new rules will therefore apply to any supply where the consideration for the supply is removed from the coin-operated device after that day.

Clause 18

Supply of Business Assets of Deceased

ETA
167(2)

Existing subsection 167(2) provides for an election to have a tax-free roll-over of business assets of a deceased individual from the individual's estate to a beneficiary of the estate who is an individual and a registrant provided the beneficiary is acquiring the assets for consumption, use or supply in the course of a commercial activity.

For greater certainty, subsection 167(2) is amended to refer to the estate – i.e., as opposed to the deceased's personal representative – as the supplier and the party to the election since the estate is treated as a person for GST purposes.

This amendment is effective January 1, 1991.

Clause 19

Required Documentation

ETA
169(4)(*b*)

Subsection 169(4) provides that a GST registrant is not permitted to claim an input tax credit unless the registrant has sufficient evidence to support the claim. Furthermore, where the registrant is required, under subsection 228(4), to remit the tax on real property purchased by the registrant, subsection 169(4) stipulates that the special return, which accounts for the tax and is required under subsection 228(4), must be filed before the input tax credit in respect of that property may be claimed.

The amendment to paragraph 169(4)(*b*) is consequential to the amendment to subsection 228(4), which eliminates the requirement for registrants to file a separate return unless the registrant acquires

real property for use or supply otherwise than in the course of the registrant's commercial activities (see commentary on clause 47). Where the property is for use or supply primarily in the course of the registrant's commercial activity, the tax must be reported in the registrant's regular GST return.

This amendment is effective January 1, 1997.

Clause 20

Restrictions on Input Tax Credits

ETA
170(1)(*a*.1)

Subsection 170(1) lists certain importations and taxable supplies received by a registrant that do not give rise to any input tax credit entitlement.

New paragraph 170(1)(*a*.1) is added. This paragraph is consistent with subsection 18(12) of the *Income Tax Act*, which denies a deduction of expenses incurred by an individual in respect of a home office where it is neither the individual's principal place of business nor a place that is both used exclusively by the individual to earn income from a business and used on a regular and continuous basis for meeting clients, customers or patients. This amendment provides for a similar denial of input tax credits in such circumstances.

For imported goods, the amendment applies to importations after ANNOUNCEMENT DATE and, in other cases, to supplies for which all of the consideration becomes due after that day or is paid after that day without having become due.

Clause 21

Benefits to Shareholders, etc.

ETA
172(2)

Subsection 172(2) provides a self-supply rule where property or services are appropriated for the benefit of a shareholder, beneficiary, partner or member of a corporation, trust, partnership, charity or non-profit organization that is a registrant. Where there is such an appropriation, the registrant is considered to have made a supply of the property or service at its fair market value and to have collected GST on that amount.

Subsection 172(2) is amended as a consequence of the amendments to the definition "charity" in subsection 123(1) and the addition to that subsection of the definition "public institution" (see commentary on the definitions of those terms under clause 1). The amendment to subsection 172(2) ensures that the self-supply rule will continue to apply to the same entities to which it currently applies.

This amendment comes into force on January 1, 1997.

Clause 22

Taxable Benefits

ETA
173

Under existing section 173, where a registrant makes a supply, other than an exempt supply, of property or a service to an employee or shareholder of the registrant and the supply gives rise to a taxable benefit for income tax purposes, GST applies to the value of the benefit, excluding any provincial tax component. To simplify the calculation of the GST to be remitted, the amendments to section 173 provide for the calculation of GST on a value that includes the provincial sales tax and GST included in the taxable benefit for

income tax purposes. Further changes include streamlining the treatment of reimbursements for goods and services that give rise to an employee benefit, as well as extending the election under subsection 173(2) to automobile operating costs. These changes are explained below.

Related amendments are made to sections 6, 12 and 15 of the *Income Tax Act* (see commentary on clauses 155 to 157).

Subclause 22(1)

Employee and Shareholder Benefits

ETA
173(1)

Under the existing legislation, where expenses relating to the use or operation of an automobile in a taxation year are fully reimbursed by an employee or shareholder, section 173 does not apply. Rather, GST is payable by the employer or corporation on each reimbursement as it is received from the employee or shareholder. No amount is included as an employee or shareholder benefit for income tax purposes in determining the income of the individual.

New paragraph 173(1)(*b*) provides that section 173 does apply in this circumstance. Under new subparagraph 173(1)(*d*)(v), GST remains payable on the reimbursements received, but these are aggregated and the tax is deemed to have been collected only at the end of February in the following year or, in the case of shareholders, at the end of the taxation year of the corporation.

New paragraph 173(1)(*c*) replicates the rules set out in existing paragraph 173(1)(*d*) and ensures that the provision applies to employee or shareholder benefits arising out of the provision of property to persons related to the employee or shareholder.

New subparagraphs 173(1)(*d*)(i) to (iv) list the circumstances in which the employer or corporation would not be required to remit GST on the benefit. Under the existing legislation, these exceptions are set out in subparagraphs 173(1)(*e*)(i) to (v). One such exception

is where an election under subsection 173(2) is made in respect of a passenger vehicle or aircraft. Existing subparagraph 173(1)(*e*)(ii) requires that this election be in effect at the time the supply is made. This would pose a problem if, for example, a vehicle were leased to an employer and made available to an employee in a taxation year prior to that in which the employer wished to make the election. To address this, new subparagraph 173(1)(*d*)(ii) provides that the election needs to be in effect only at the beginning of the taxation year for which the benefit is calculated.

The calculation of the GST remittance in respect of an employee or shareholder benefit is simplified under new subparagraph 173(1)(*d*)(v), which replaces existing subparagraph 173(1)(*e*)(v). The existing provision requires that any provincial sales tax (PST) included in the benefit amount for income tax purposes be subtracted before determining the GST to be remitted by the employer or corporation. This will no longer be required under the amended provision. Instead, under new subparagraph 173(1)(*d*)(vi), the GST remittance is based on the GST- and PST-included total benefit reported for income tax purposes.

As noted above, the amendments also affect the treatment of reimbursements paid by employees and shareholders. Under the existing legislation, GST is collectible on reimbursements in respect of employee or shareholder benefits in the reporting period in which they are made. Under the revised rules in new subparagraph 173(1)(*d*)(v), the total consideration used in calculating the GST remittable by the employer or corporation is the sum of the GST- and PST- included benefit reported for income tax purposes and all reimbursements made by the employee to the employer or by the shareholder to the corporation throughout the year. Under new subparagraph 173(1)(*d*)(vii), which replaces existing subparagraph 173(1)(*e*)(vi), the GST in respect of the total consideration will be deemed to have been collected on the last day of February in the following taxation year or, in the case of shareholders, on the last day of the corporation's taxation year. As a result, GST will no longer be collectible on reimbursements in the reporting period in which they are paid.

For purposes of determining the amount of GST to be remitted by the employer or corporation in respect of any benefit other than the automobile operating cost benefit, a factor of 6/106 will apply to the amount determined to be the tax-included total consideration. In the case of the latter benefits, the prescribed percentage – currently five per cent – applies to the amount determined to be the total consideration.

Further wording changes reflected in new subparagraph 173(1)(*d*)(v) address the situation where property is made available to an individual over two or more taxation years. In this case, each of the taxable benefit amounts and reimbursements for those years is treated as part of the consideration for the supply of the property and is subject to tax in the year it arises. In determining the GST remittance in respect of a particular year's benefit or reimbursement, it is not necessary to refer to the total consideration for the supply. Rather, new subparagraph 173(1)(*d*)(v) refers only to the total consideration for the particular year's use of the property.

These amendments apply to the 1996 and subsequent taxation years.

Subclause 22(2)

Effect of Election

ETA
173(3)(*d*) and (*e*)

Subsection 173(3) sets out the rules that apply where an election under subsection 173(2) is made in respect of a passenger vehicle or aircraft. Generally, the effect of the election is that, while a GST component is included in the employee or shareholder benefits for income tax purposes, GST is not required to be remitted by the employer or corporation in respect of those benefits, and the registrant forgoes input tax credits for the lease or acquisition costs of the vehicle or aircraft.

New paragraph 173(3)(*d*) broadens the scope of this election so that it applies to the operating expenses of the vehicle or aircraft. In effect, registrants who make such an election in respect of a vehicle or

aircraft will no longer claim input tax credits for supplies, such as gas and repairs, used in the operation of the vehicle or aircraft during a period in which the election is in effect. In turn, no GST is required to be remitted in respect of benefits arising from the operation of such vehicles or aircraft. New paragraph 173(3)(*e*) provides for a recapture where an input tax credit has already been claimed in respect of expenses relating to the operation of the vehicle or aircraft in a period during which an election is in effect.

This amendment applies for the purpose of determining net tax for reporting periods ending after 1995. It applies to existing elections as if they were made on January 1, 1996 so that only those expenses that are attributable to periods after 1995 are ineligible for input tax credits or subject to the recapture rule.

Clause 23

Travel and Other Allowances

ETA
174

Section 174 deals with allowances paid to employees, partners and volunteers for expenses incurred by them and deems the person paying the allowance to have received a supply and to have paid tax.

Subclauses 23(1) and (2)

ETA
174(*a*)(iii) and (*c*)(ii)

Subparagraphs 174(*a*)(iii) and (*c*)(ii) are amended to refer to a "public institution" as a consequence of the amendment to the definition "charity" in subsection 123(1) and the addition to that subsection of the definition "public institution". The latter refers to a registered charity (within the meaning of the *Income Tax Act*) that is a school authority, hospital authority, public college, university or person determined by the Minister of National Revenue to be a municipality for the purposes of Part IX of the Act (see commentary on the

definitions "charity" and "public institution" under clause 1). The amendments to subparagraphs 174(*a*)(iii) and (*c*)(ii) ensure that section 174 will continue to apply to all entities that are registered charities for income tax purposes.

These amendments apply as of January 1, 1997.

Subclause 23(3)

ETA
174(*d*) to (*f*)

The purpose of section 174 is to enable a person who is an employer, partnership or charity to claim an input tax credit or rebate in respect of allowances paid for certain expenses to the same extent as would have been the case had the person incurred the expense directly. Section 174 is amended to achieve this more directly by deeming, in new paragraph 174(*d*), the person to have received a supply of the property or service and by deeming, in new paragraph 174(*e*), the use of the property or service by the employee, partner or volunteer to be that of the employer, partnership, charity or public institution, as the case may be. New paragraph 174(*f*) is added to clarify that the time at which the person is considered to have paid tax in respect of the supply is the time at which the allowance is paid.

These amendments are effective as of January 1, 1991, except that they do not apply to claims for input tax credits or rebates that are received at a Revenue Canada office before ANNOUNCEMENT DATE.

Clause 24

Reimbursements

ETA
175 and 175.1

Section 175 Employee, Partner or Volunteer Reimbursements

Section 175 applies where a person who is an employer, partnership or charity reimburses an employee, partner or volunteer for expenses incurred in relation to the person's activities. The purpose of the provision is to enable the person to claim an input tax credit or rebate in respect of the reimbursed expense to the same extent as would have been the case had the person incurred the expense directly. The provision is amended to achieve this more directly by deeming the person to have received a supply of the property or service and by deeming the use of the property or service by the employee, partner or volunteer to be that of the employer, partnership or charity.

The provision is also amended to make reference to a "public institution" as a consequence of the change to the definition "charity" in subsection 123(1) and the addition to that subsection of the definition "public institution". The latter refers to a registered charity (within the meaning of the *Income Tax Act*) that is a school authority, hospital authority, public college, university or person determined by the Minister of National Revenue to be a municipality for the purposes of Part IX of the Act (see commentary on clause 1). This amendment to section 175 ensures that it will continue to apply to all persons that are registered charities for income tax purposes.

Existing paragraph 175(*c*) refers to "tax paid or payable" in respect of a reimbursed expense. New subsection 175(1) refers only to the tax paid in respect of the expense.

The substantive change reflected in new subsection 175(1) is in the manner of determining the amount of the reimbursement that represents tax deemed to have been paid by the employer, partnership, charity or public institution. This amount is used in the determination of an input tax credit or rebate payable to that person.

Under existing section 175, it is the amount included in the reimbursement and paid on account of tax. Under new subsection 175(1), it is determined by multiplying the total tax paid by the employee, member or volunteer by the lesser of the percentage of the total expense that is reimbursed and the percentage of the total use for which the property or service was acquired or imported that relates to the activities of the person paying the reimbursement.

The changes to subsection 175(1) are effective January 1, 1991 but do not apply for the purpose of determining any amount claimed (other than an amount deemed to have been claimed) in a return or application received at a Revenue Canada office before ANNOUNCEMENT DATE. Also, the reference to "public institution" applies only after 1996.

New subsection 175(2) has the effect of denying an input tax credit to a partnership in respect of a reimbursed expense incurred by a partner where the partner has already claimed an input tax credit in respect of the same expense by virtue of new paragraph 272.1(2)(*b*) (see commentary on clause 76). This subsection is effective as of January 1, 1991 but does not apply for the purpose of determining any amount claimed (other than an amount deemed to have been claimed) in a return or application received at a Revenue Canada office before ANNOUNCEMENT DATE. On or before that day, however, the reference to new paragraph 272.1(2)(*b*) shall be read as a reference to existing subsection 145(2), which the new paragraph replaces.

Section 175.1 Warrantee Reimbursement

New section 175.1 ensures that a warrantor can claim input tax credits in respect of the tax portion of reimbursements it has made to the warranty holder, who is referred to as the "beneficiary" in the legislation, for property or services such as repairs provided under the terms of a warranty and supplied by a third party. This could occur where charges for repairs and tax are initially paid by the warranty holder instead of the warrantor due to an emergency or due to the distance from the warrantor’s own authorized repair facility.

The input tax credit is calculated based on the portion of the total cost that is reimbursed by the warrantor. To be entitled to the input tax credit, the warrantor must provide written indication with the reimbursement that a portion of the reimbursement is on account of the GST.

New section 175.1 also addresses the situation where a warranty holder is a registrant that has claimed an input tax credit or rebate for the property or service and is subsequently reimbursed an amount on account of the tax by the warrantor. In this situation, the section provides for the recapture, from the warranty holder, of the tax reimbursed, in proportion to the percentage of the total tax payable that was claimed as an input tax credit or rebate.

New section 175.1 applies to amounts reimbursed after ANNOUNCEMENT DATE.

Clause 25

Used Tangible Personal Property

ETA
176

Existing section 176 deems tax to have been paid by a registrant, in certain circumstances, where the registrant has acquired used tangible personal property from a person not required to charge tax. This enables the registrant to claim notional input tax credits in respect of these purchases to the extent that they are for consumption, use or supply in a commercial activity. The notional input tax credit mechanism was intended to remove the tax that was originally paid on the goods and not recovered.

These amendments, which apply to supplies made after ANNOUNCEMENT DATE, replace subsections 176(1) to (3) with the provision for used returnable containers and repeals the notional input tax credit system for other used goods. Nonetheless, notional input tax credits will continue to be provided in the case of seizures

and repossessions by creditors (section 183) and for property acquired by insurers on the settlement of claims (section 184).

As a result of the elimination of notional input tax credits for used goods traded in by a person who is not required to charge tax, a new provision respecting trade-ins is introduced in new subsection 153(4) (see commentary on clause 13).

Eliminating notional input tax credits removes the need for special rules for supplies of specified tangible personal property (such as works of art and jewellery). As a result, specified tangible personal property will receive the same GST treatment as other tangible personal property, except in the case of property seized or repossessed or acquired by an insurer on settlement of a claim.

For example, a registrant purchasing a work of art from a dealer for an office will be able to claim an input tax credit if engaged in commercial activities. If the artwork were subsequently resold, it would be taxable. Registrants holding specified tangible personal property on THE DAY AFTER ANNOUNCEMENT DATE may be able to claim previously denied input tax credits through the change-of-use rules (subsection 199(3)) since the property will, at that time, no longer be deemed to be used otherwise than in commercial activities.

The elimination of notional input tax credits also removes the need for the recapture of input tax credits in respect of specified tangible personal property acquired by a registrant for export or otherwise supplied by the registrant on a zero-rated basis. Therefore, registrants who have claimed actual or notional input tax credits for used specified tangible personal property acquired on or before ANNOUNCEMENT DATE will not have to self-assess the tax if they subsequently export the property.

Subclause 25(1)

Acquisition of Used Returnable Containers

ETA
176(1)

Subsection 176(1) is amended to make reference only to returnable containers used in the delivery of property that is taxable at the rate of 7 per cent, such as soft drink bottles.

The rules with respect to returnable containers remain the same. Where a registrant purchases a returnable container from a person who is not required to charge tax (for example, where a consumer returns used containers to a retailer in exchange for a deposit refund), this subsection allows the registrant to claim a notional input tax credit equal to 7/107ths of the amount paid to the person. It should be noted that no notional input tax credit may be claimed in respect of a container used for a zero-rated good, such as milk, as tax would not have been charged on the deposit for such a container.

A registrant cannot claim a notional input tax credit in respect of a purchase of a used container unless the registrant pays the same amount for the empty container as the amount (including GST) that the registrant receives when returning the empty container to suppliers. This rule does not apply to a registrant who buys and sells beverage containers only when they are empty (such as the operator of a bottle depot).

The amendment applies to supplies made after ANNOUNCEMENT DATE.

Subclause 25(2)

Value of Used Goods

ETA
176(4) and (4.1)

Subsection 176(4) is renumbered as subsection 176(2) and is retained for the purposes of the returnable container rules. It is a valuation rule that ensures that a registrant cannot claim excessive notional input tax credits on containers acquired in a non-arm's-length transaction. The repeal of subsection 176(4.1) is consequential to the repeal of the rules relating to specified tangible personal property.

These amendments apply to supplies made after ANNOUNCEMENT DATE.

Subclause 25(3)

Restriction on Input Tax Credits

ETA
176(5) to (7)

Subsections 176(5) to (7), which restrict the availability of input tax credits for specified tangible personal property, are repealed. This amendment is consequential to the repeal of the rules relating to specified tangible personal property.

The restrictions on input tax credits under the existing provision will not apply after ANNOUNCEMENT DATE. Registrants who hold specified tangible personal property on THE DAY AFTER ANNOUNCEMENT DATE may be able to claim previously denied input tax credits under the change-of-use rules for capital property because the deemed use of the property in non-commercial activities under existing subsection 176(5) will no longer apply.

Clause 26

ETA
177

Agents

Section 177 deals with supplies made by an agent, including an auctioneer, on behalf of principals. The existing rules provide for different treatment depending on whether the principal is disclosed or undisclosed and is a registrant or non-registrant. They also set out special rules for auctioneers. Under the amended rules, auctioneers and other agents are treated in the same manner, the disclosure criterion is removed, and all transactions where the principal is required to collect tax in respect of the supply are subject to the general rules. Amended section 177 applies only to persons not required to collect tax on particular supplies.

Amended subsection 177(1) sets out the new rules that apply where an agent, acting in the course of a commercial activity, makes a supply of tangible personal property (other than an exempt or zero-rated supply) on behalf of a principal who, but for this subsection, would not be required to collect tax on the supply (i.e., the principal is an unregistered person or did not last acquire or use the property in the course of a commercial activity). Amended subsection 177(1) deems these supplies to be taxable. Tax applies on the full selling price of the property.

The general case is that the agent is deemed to have made the supply of the property and is therefore the one responsible for accounting for the tax. Under this general rule, the agent's service supplied to the principal (i.e., the agent's commission) is not subject to tax.

An exception to the general case described above is provided where the principal who is not required to collect tax in respect of a particular supply of property is nevertheless a registrant, and the property was last used or acquired for consumption or use in a business or adventure or concern in the nature of trade of the principal or in making a taxable supply by way of sale of real property. Some principals in this circumstance may prefer to account

for the tax on the property instead of having the agent do so (e.g., where a mixture of items is being sold, and the principal must account for the tax on some of the items because they were used in a commercial activity). In that event, the principal and the agent may elect in writing to have the principal account for the tax. The result is that the principal charges and reports the tax on the supply of the property, pays tax on the agent's services and is entitled to claim an input tax credit for the tax on the agent's services, but not for tax on any other property or service that might be attributable to the supply in respect of which the election was made.

In all cases where an agent makes a supply on behalf of a principal who is required to collect tax in respect of the supply, the same rules apply as if the supply were made by the principal directly, whether or not the principal is disclosed to the recipient of the supply. The principal will be required to account for that tax in the principal's return, will pay tax on the agent's services, if those are taxable, and may claim the appropriate input tax credits.

The amendments to section 177 apply in respect of any supply made after ANNOUNCEMENT DATE by an agent on behalf of a principal.

Amendments are also proposed to the *Credit Note Information Regulations* and the *Input Tax Credit Information Regulations*. These amendments will ensure that an invoice issued by any intermediary who is making a supply on behalf of another person may satisfy the documentation requirements that the recipient of the supply must meet in order to be eligible for an input tax credit. This will apply whether or not the intermediary is a legal agent of the other person. The amended regulations will apply in relation to supplies made after ANNOUNCEMENT DATE.

Clause 27

Expenses Incurred in Supply of Service

ETA
178

Existing section 178 deals with expenses for which a person is reimbursed by the recipient of a supply of a service made by the person. Where the expense was incurred as an agent of the recipient, it is deemed not to be part of the consideration for the supply of the service, while if the expense was not incurred as an agent of the recipient, it is deemed to be part of the consideration for the service.

Section 178 is unnecessary as the treatment it provides already accords with the legal nature of these transactions. The section is therefore repealed.

This amendment is deemed to have come into force on THE DAY AFTER ANNOUNCEMENT DATE.

Clause 28

Approval for Direct Seller

ETA
178.3

Section 178.3 sets out rules for an alternate collection method which allows direct sellers (who have received approval from the Minister of National Revenue to follow this method) to calculate their net tax liabilities for GST purposes as if they made their sales directly to final consumers at the suggested retail price of their products. Their sales to independent sales contractors (who purchase the products from the direct seller for resale to consumers) are disregarded under this method and the independent sales contractors are not required to account for GST on the direct seller’s exclusive products.

Subsection 178.3(3) Adjustments to Direct Seller's Net Tax

Existing subsection 178.3(3) provides that where an independent sales contractor supplies an exclusive product of a direct seller to the direct seller, the direct seller may claim a deduction in determining the direct seller's net tax. The existing provision allows the deduction to be claimed in a return for the particular reporting period in which the supply is made or in any subsequent reporting period that ends on or before the day that is four years after the day the particular reporting period ends.

Amended subsection 178.3(3) reduces the limitation period for claiming the deduction from four years to two years. Under the new limitation period, the deduction must be claimed in a return filed within two years after the due date of the return for the reporting period in which the independent sales contractor made the supply.

Subsection 178.3(4) Adjustments for Amounts Paid or Credited

Existing subsection 178.3(4) provides that a direct seller may claim a deduction in determining the direct seller's net tax where an independent sales contractor has made a supply of an exclusive product of the direct seller in circumstances that result in the supply not being subject to tax. A deduction may also be taken where the supply is for consideration less than the suggested retail price of the product. The existing provision allows the deduction to be claimed in the return for the particular reporting period in which the direct seller credits the contractor for the tax or in any subsequent reporting period that ends on or before the day that is four years after the day the particular reporting period ends.

Amended subsection 178.3(4) reduces the limitation period for claiming the deduction from four years to two years. Under the new limitation period, the deduction must be claimed in a return filed within two years after the due date of the return for the reporting period in which the credit was given.

These amendments apply after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE. The four-year limitation period will continue to apply where the supply of the

exclusive product is made by the independent sales contractor on or before the last day of that month.

Clause 29

Approval for Distributor

ETA
178.4

Section 178.4 sets out the rules for an alternate collection method which allows distributors of direct sellers to ignore, for GST purposes, sales to independent sales contractors and, instead, calculate their net tax liabilities as if the sales had been made directly to the final purchasers for the suggested retail price of the products. The method may be used by a distributor who received an approval from the Minister of National Revenue.

Subsection 178.4(3) Adjustments to Distributor's Net Tax

Existing subsection 178.4(3) provides that where an independent sales contractor supplies an exclusive product of a direct seller to a distributor of the direct seller, the distributor may claim a deduction in determining its net tax. The existing provision allows the deduction to be claimed in a return for the particular reporting period in which the supply is made or in any subsequent reporting period that ends on or before the day that is four years after the day the particular reporting period ends.

New subsection 178.4(3) reduces the limitation period for claiming the deduction from four years to two years. Under the new limitation period, the deduction must be claimed in a return filed within two years after the due date of the return for the reporting period in which the independent sales contractor made the supply.

Subsection 178.4(4) Adjustment for Amounts Paid or Credited

Existing subsection 178.4(4) provides that a distributor of a direct seller may claim a deduction in determining net tax where an

independent sales contractor has made a supply of an exclusive product of the direct seller in circumstances which result in the supply not being subject to tax. A deduction may also be taken where the supply is for consideration less than the suggested retail price of the product. The existing provision allows the deduction to be claimed in the return for the particular reporting period in which the distributor credits the contractor for the tax or in any subsequent reporting period that ends on or before the day that is four years after the day the particular reporting period ends.

Amended subsection 178.4(4) reduces the limitation period for claiming the deduction from four years to two years. Under the new limitation period, the deduction must be claimed in a return filed within two years after the due date of the return for the reporting period in which the credit was given.

These amendments apply after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE. The four-year limitation period will continue to apply where the supply of the exclusive product is made by the independent sales contractor on or before the last day of that month.

Clause 30

Drop Shipments

ETA
179

The overall purpose of section 179 is to ensure that GST applies to goods in Canada that are supplied by an unregistered non-resident person for final consumption in Canada in the same way as tax would apply to the goods if they were acquired from the non-resident outside Canada and imported for that purpose. To achieve this, subsection 179(1) sets out the general rule that, where a registrant transfers physical possession of the goods to another person in Canada on behalf of an unregistered non-resident person, the registrant is liable to collect tax from the non-resident, generally calculated on the fair market value of the property at that time.

Provision is made, through a system of drop-shipment certificates, for registrants to avoid having to account for tax on the goods as long as they are transferring them to other registrants in Canada.

Subclause 30(1)

Exclusion of Property from the Drop-Shipment Rules

ETA
179(1)(*a*)(*i*)

Subsection 179(1) requires a registrant making a drop-shipment of goods (i.e., transferring physical possession of the goods) to a person in Canada on behalf of an unregistered non-resident person to account for tax on the goods. Specifically, the registrant is treated as having made a taxable supply of the goods to the non-resident. These rules ensure that tax is payable in respect of goods transferred to consumers and other unregistered persons by Canadian suppliers on behalf of unregistered non-residents.

The amendment to subparagraph 179(1)(*a*)(*i*) ensures that tax does not apply twice on the same transaction. Under the existing provision, where a non-resident registered person, such as a publisher, contracts with an unregistered non-resident person for services (such as mailing house services) and the unregistered non-resident in turn sub-contracts the service to a registered business in Canada, tax applies twice in respect of the same goods. In this example, the non-resident publisher would have to apply tax on the invoice to the Canadian customer and the registered sub-contractor of the non-resident mailing house would have to charge tax on the fair market value of the publication. To avoid this result, the amendment ensures that the drop-shipment rules in subsection 179(1) do not apply to property of a person who is registered for purposes of the tax.

This amendment is effective January 1, 1991.

Subclause 30(2)

Value of Consideration

ETA
179(1)(*c*) and (*d*)

Existing paragraph 179(1)(*c*) sets out the value of the consideration for the taxable supply of property that is deemed to be made by a registrant to a non-resident person in a drop-shipment situation described by paragraphs 179(1)(*a*) and (*b*). The amendment to paragraph 179(1)(*c*) combines existing subparagraphs (*c*)(ii) and (iii) since, with respect to transfers to consignees, existing subparagraph (*c*)(ii) deals with cases also described in existing subparagraph (*c*)(iii). In addition, the reference to consideration for a supply of a service that is not included in the fair market value of the property is deleted because that fair market value reflects the value of the service.

This amendment applies to supplies made after ANNOUNCEMENT DATE.

The supply of a service of storing or shipping goods is intended to be taxable in all cases unless it qualifies for zero-rated treatment under Schedule VI. Hence, these services are not relieved of tax under existing subsection 179(2), even where tax on the goods themselves is relieved with the use of the drop-shipment certificate. Consistent with this policy, paragraph 179(1)(*d*) is amended to ensure that it does not apply to the supply of storing or shipping.

This amendment applies to supplies made after ANNOUNCEMENT DATE.

Clause 31

International Travel

ETA
180.1

Existing section 5 of Part VII of Schedule VI to the Act zero-rates charges to passengers for goods delivered or services performed on board an international flight while the flight is in Canada; however, the Act is silent on the treatment of supplies on board international vessels. New section 180.1 replaces the existing zero-rating provision with a provision that deems certain supplies made on board an international aircraft or vessel to be made outside Canada.

This amendment applies to supplies made after ANNOUNCEMENT DATE.

Subsection 180.1(1) Definitions

New subsection 180.1(1) contains the definition "international flight", which replaces existing section 1 of Part VII of Schedule VI to the Act (see commentary on clause 147). This term refers to a flight of a commercially-operated aircraft where the flight either begins or ends outside Canada. This subsection also contains the definition "international voyage", which refers to a voyage of a commercially-operated vessel where the voyage either begins or ends outside Canada.

Subsection 180.1(2) Delivery While on International Travel

New subsection 180.1(2) deals with supplies to individuals of goods delivered to the individuals, or services wholly performed, on board an aircraft or vessel on an international flight or voyage. This would include, for example, charges for food and beverages served on board the vessel. As the supply is deemed to be made outside Canada, it is beyond the scope of the GST (see the commentary on clause 148 for related changes).

Clause 32

Forfeitures and Extinguished Debt

ETA
182

Section 182 deals with the situation where, as a consequence of the breach, modification or cancellation of an agreement for the making of a taxable supply, amounts are paid or forfeited by a person to a registrant otherwise than as consideration for the supply. The section also deals with situations where a debt or other obligation of a registrant to a person is reduced or extinguished without payment on account of the debt or obligation. In both cases, the registrant is treated as having made a taxable supply to the other person and as having collected tax equal to 7/107ths of the amount paid, forfeited, reduced or extinguished. The person paying or forfeiting the amount is deemed to have paid tax and, if a registrant, may be entitled to an input tax credit for that tax.

Subsection 182(1) Forfeiture and Extinguishment of Debt

Subsection 182(1) is amended to merge the current subsections 182(1) and (2). New subsection 182(1) sets out the rules where an amount is paid or forfeited to a registrant or a debt or other obligation of the registrant is reduced or extinguished.

Amended subsection 182(1) specifies that the consideration fraction of the amount paid or forfeited, or by which the debt or obligation is reduced or extinguished, is deemed to be consideration for the supply under the agreement that was breached, modified or terminated. In addition, the amended subsection clarifies that it is the recipient of the supply under that original agreement that is considered to have paid consideration equal to the paid or forfeited amount or amount by which the debt was reduced or extinguished. That recipient would then be entitled to claim an input tax credit for the tax on that deemed consideration provided all other conditions for claiming the credit are satisfied, such as the condition that the original supply was for consumption, use or supply by the recipient in the course of a commercial activity of the recipient. If a third party makes a damage

payment in respect of the supply to the original recipient, the third party is not eligible for an input tax credit in respect of the payment.

Subsections 182(2) and (2.1) Transitional

New subsection 182(2) simply replaces the transitional rules contained in existing paragraphs 182(1)(*b*) and (2)(*b*).

New subsection 182(2.1) specifies that the transitional rules in Division IX that applied for purposes of the introduction of the GST do not apply for the purposes of subsection 182(1). This provision is not necessary under the existing legislation because existing subsection 182(1) deems a new supply to be made and the transitional rules for the GST specify that the tax applies to any supply deemed to have been made. In contrast, amended subsection 182(1) treats the amount paid or forfeited or amount by which the debt or obligation is reduced or extinguished as consideration for the original supply. Therefore, new subsection 182(2.1) is added to continue to ensure that the deemed consideration under subsection 182(1) for a taxable supply does not fall outside the scope of the tax because of the transitional rules.

The amendments to section 182 come into force on the DAY AFTER ANNOUNCEMENT DATE.

Clause 33

Seizures and Repossessions

ETA
183

Section 183 provides rules for the application of the GST to property seized or repossessed by a creditor.

Subclause 33(1)

ETA
183(1)(*d*)

Paragraph 183(1)(*d*) provides that, where a creditor seizes or repossesses real property from a debtor that would have been entitled to a credit under section 193 or a rebate under section 257 if the debtor had instead sold the property under taxable conditions, the debtor is able to claim the credit or rebate based on the fair market value of the property at the time it is seized or repossessed. This removes tax embedded in the value of the property so that the property is not subject to double tax – i.e., when the debtor originally purchased the property and when the creditor resupplies it on a taxable basis after the seizure or repossession.

Paragraph 183(1)(*d*) is amended as a result of the addition of new Part V.I of Schedule V, which sets out exemptions for charities that are found in existing section 25 of Part V of that Schedule. This amendment ensures that paragraph 183(1)(*d*) continues to apply to the same supplies of real property that are covered under the existing wording.

This amendment applies to supplies deemed to have been made by debtors to creditors after 1996.

Subclauses 33(2) and (3)

ETA
183(5)(a) and (6)(a)

Subsections 183(5) and (6) apply where a creditor appropriates for the creditor's own use property that the creditor seized or repossessed. The amendments to paragraphs 183(5)(*a*) and (6)(*a*) are consequential to the repeal of the special rules under section 176 pertaining to specified tangible personal property such as artwork (see commentary on clause 25). As a result of the changes to section 176, specified tangible personal property having a fair market value in excess of a prescribed amount will no longer be deemed to be used in activities that are not commercial activities. Accordingly, these

deeming rules in the case of seized or repossessed property are repealed.

If specified tangible personal property was seized or repossessed from a person who would have been required to charge tax had they sold the property, the creditor will continue to be required to self-assess tax when the property is appropriated for the creditor's own use. However, as a result of the amendment, the creditor will be entitled to claim an input tax credit for the self-assessed tax if the property is used in commercial activities. As is the case under the existing rules, the creditor is not entitled to a notional input tax credit in respect of such property for any tax previously paid by the debtor from whom the property was seized or repossessed. Finally, if the creditor uses the specified tangible personal property in commercial activities, the creditor will have to charge tax on any subsequent resale of the property.

Also, the *Specified Tangible Personal Property (GST) Regulations* will be amended to apply for the purposes of section 183 instead of section 176. There will be no changes to the prescribed amounts.

The amendments apply after ANNOUNCEMENT DATE. Registrants who hold specified tangible personal property on THE DAY AFTER ANNOUNCEMENT DATE may be able to claim previously denied input tax credits under the change-of-use rules for capital property because the deemed use of the property in non-commercial activities under existing subsections 183(5) and (6) will no longer apply.

Subclause 33(4)

ETA
183(7)

Subsection 183(7) applies where a creditor sells property that was previously seized or repossessed. The amendment to subsection 183(7) removes a reference to supplies deemed to have been made under section 177 and is consequential to the amendments to section 177 (see commentary on clause 26). Since section 177 no longer deems a supply to be made between a principal and an agent, the reference to that section is no longer necessary.

The amendment applies to property that is supplied by the creditor after ANNOUNCEMENT DATE.

Subclauses 33(5) and (6)

ETA
183(7)(*b*) and (8)(*b*)

The amendments to subparagraphs 183(7)(*b*) and (8)(*b*) are consequential to the repeal of the special rules under section 176 pertaining to specified tangible personal property (see commentary on clause 25). That section will no longer refer to prescribed amounts in respect of such property. The *Specified Tangible Personal Property (GST) Regulations* will be amended to apply for the purposes of section 183 instead of section 176. There will be no changes to the prescribed amounts.

Also, the reference to "used specified tangible personal property" has been replaced by a reference to "specified tangible personal property". As a result, if a creditor seizes or repossesses specified tangible personal property that had been held as inventory of an unregistered small supplier, the creditor will not be eligible for a credit under this section on the resupply of the property.

The amendment applies to property that is supplied by a creditor after ANNOUNCEMENT DATE.

Subclause 33(7)

Debt Security, etc.

ETA
183(10)

Existing subsection 183(10) provides that powers of sale and other similar rights exercisable under a debt security in respect of a property will be treated as seizures and repossessions.

As currently drafted, the deeming provisions contained in this subsection apply only for the purposes of section 183.

Subsection 183(10) is amended to provide that the deeming provisions apply for the purposes of all of Part IX.

The subsection is also amended to clarify, for greater certainty, that the deeming rules apply in circumstances where a creditor causes a supply of property as a result of the creditor exercising the creditor's right under an Act of Parliament or of the legislature of a province. For example, where a municipality is causing the supply of property as a consequence of the non-payment of municipal taxes, the deeming rules apply. The wording changes also more accurately describe a right under a debt security as a right under an agreement relating to the debt security.

The amendments to subsection 183(10) apply to supplies made after ANNOUNCEMENT DATE. They also apply to supplies made on or before that day unless the supply was treated as non-taxable – i.e., either no amount was, on or before that day, charged or collected as tax or an amount was so charged or collected but, before that day, the Minister of National Revenue received an application under subsection 261(1) for a rebate of that amount.

Subclause 33(8)

Redemption of Property

ETA
183(10.1)

Amended subsection 183(10) clarifies that powers of sale and other similar rights exercisable under the law of Canada or a province, or under an agreement relating to a debt security, in respect of a property are treated as seizures and repossessions. However, there are situations where the person from whom the property was transferred has, under such a law or agreement, a right to redeem the property.

New subsection 183(10.1) provides rules relating to cases where a property is redeemed by an original debtor after the creditor has caused a supply of the property to a purchaser who has paid tax with respect to that supply.

To illustrate how the rules apply in this circumstance, consider the example of a municipality that causes the supply of property of one of its residents (the "original debtor") as a consequence of the resident's non-payment of municipal taxes. Assume the property is purchased by a purchaser at an auction. Assume also that, under the applicable law, the original debtor has a right to redeem the property within a certain period of time. In those circumstances, new subsection 183(10.1) provides that the redemption of the property is considered to be a supply by way of sale by the auction purchaser for no consideration. The result is that the original debtor is not required to pay tax twice on the same property – when the debtor originally purchased it and when the debtor redeems it. Except for purposes of section 183, the debtor is deemed not to have ever supplied the property or to have re-acquired it. Therefore, the seizure and redemption does not affect the result of any future changes in use or sales of the property by the debtor. Also, where the original debtor reimburses the auction purchaser or the municipality an amount on account of the GST the auction purchaser paid in acquiring the property, the original debtor is deemed to have paid tax in error equal to the amount so reimbursed. This enables the debtor to claim a rebate under section 261 for the amount.

As far as the auction purchaser in this example is concerned, when that purchaser is reimbursed by the original debtor for an amount on account of the GST the purchaser paid, new subsection 183(10.1) provides that any input tax credit or rebate that the purchaser claimed with respect to that tax is added back in determining the purchaser's net tax for the reporting period in which the property is redeemed. This rule ensures that the auction purchaser does not, in effect, recover the same amount of tax twice. Furthermore, new subsection 183(10.1) precludes the auction purchaser from claiming the tax paid on the property as an input tax credit or rebate after the redemption occurs.

Related amendments are also made to sections 193 and 257 to ensure that the original debtor cannot claim an input tax credit or a rebate pursuant to those sections in respect of the deemed seizure or repossession until the time limit for redeeming the property has expired without the redemption right being exercised (see commentary on clauses 39 and 68).

New subsection 183(10.1) applies to redemptions of property occurring after ANNOUNCEMENT DATE.

Clause 34

Supply of Real Property to Insurer on Settlement of Claim

ETA
184

Section 184 provides rules for the treatment of property transferred to an insurer in the course of settling an insurance claim.

Subclause 34(1)

ETA
184(1)(*d*)

Paragraph 184(1)(*d*) provides that, where an insurer seizes or repossesses real property from an insured that would have been entitled to a credit under section 193 or a rebate under section 257 if the insured had instead sold the property under taxable conditions, the insured is able to claim the credit or rebate based on the fair market value of the property at the time it is transferred to the insurer.

Paragraph 184(1)(*d*) is amended as a result of the addition of new Part V.I of Schedule V, which sets out exemptions for charities that are found in existing section 25 of Part VI of that Schedule. This amendment ensures that paragraph 184(1)(*d*) will continue to apply to the same supplies of real property that are covered under the existing wording.

This amendment applies to supplies deemed to have been made by insured persons to insurers after 1996.

Subclauses 34(2) and (3)

ETA
184(4)(*a*) and (5)(*a*)

Subsections 184(4) and (5) apply where an insurer appropriates for the insurer's own use property that was transferred to the insurer on the settlement of a claim. The amendments to paragraphs 184(4)(*a*) and (5)(*a*) are consequential to the repeal of the special rules under section 176 pertaining to specified tangible personal property such as artwork (see commentary on clause 25). As a result of the changes to section 176, specified tangible personal property having a fair market value in excess of a prescribed amount will no longer be deemed to be used in activities that are not commercial activities. Accordingly, these deeming rules in the case of property transferred to an insurer are repealed.

If specified tangible personal property was transferred to the insurer from a person who would have been required to charge tax had they sold the property, the insurer will continue to be required to self-assess tax when the property is appropriated for the insurer's own use. However, as a result of the amendment, the insurer will be entitled to claim an input tax credit for the self-assessed tax if the property is used in commercial activities. As is the case under the existing rules, the insurer is not entitled to a notional input tax credit in respect of such property for any tax previously paid by the claimant from whom the property was transferred to the insurer. Finally, if the insurer uses the specified tangible personal property in commercial activities, the insurer will have to charge tax on any subsequent resale of the property.

Also, the *Specified Tangible Personal Property (GST) Regulations* will be amended to apply for the purposes of section 184 instead of section 176. There will be no changes to the prescribed amounts.

The amendments apply after ANNOUNCEMENT DATE. Insurers who hold specified tangible personal property on THE DAY AFTER ANNOUNCEMENT DATE may be able to claim previously denied input tax credits under the change-of-use rules for capital property

because the deemed use of the property in non-commercial activities under existing subsections 184(4) and (5) will no longer apply.

Subclause 34(4)

ETA
184(6)

Subsection 184(6) applies where an insurer sells property that was previously transferred to the insurer on settlement of a claim. The amendment to subsection 184(6) removes a reference to supplies deemed to have been made under section 177 and is consequential to the amendments to section 177 (see commentary on clause 26). Since section 177 no longer deems a supply to be made between a principal and an agent, the reference to that section is no longer necessary.

The amendment applies to property that is supplied by an insurer after ANNOUNCEMENT DATE.

Subclauses 34(5) and (6)

ETA
184(6)(*b*) and (7)(*b*)

The amendments to subparagraphs 184(6)(*b*) and (7)(*b*) are consequential to the repeal of the special rules under section 176 pertaining to specified tangible personal property (see commentary on clause 25). That section will no longer refer to prescribed amounts in respect of such property. The *Specified Tangible Personal Property (GST) Regulations* will be amended to apply for the purposes of section 184 instead of section 176. There will be no changes to the prescribed amounts.

Also, the reference to "used specified tangible personal property" has been replaced by a reference to "specified tangible personal property". As a result, if an insurer acquires specified tangible personal property on settlement of a claim that had been held as inventory of an unregistered small supplier, the insurer will not be eligible for a credit on the resupply of the property.

The amendment applies to property that is supplied by an insurer after ANNOUNCEMENT DATE.

Clause 35

Financial Services – Input Tax Credits

ETA
185

Existing subsection 185(1) simplifies the operation of the tax for persons that are not financial institutions and that, in the course of their commercial activity, also provide some incidental financial services. The section deems the inputs relating to the incidental financial services to be for use in the person's commercial activities. As a result, the person is not required to apportion inputs.

Under amended subsection 185(1), listed financial institutions and persons that are financial institutions because of paragraph 149(1)(*b*) will continue to be excluded from this treatment. Nonetheless, the amended section permits persons that are financial institutions only because of new paragraph 149(1)(*c*) (see commentary on clause 11) to be treated like non-financial institutions except with respect to their activities related to credit cards or charge cards issued by them, or activities involving the granting of advances, loans or credit.

For example, if a registrant, in the course of its commercial activity of retailing goods, made over $1 million of income from interest and fees on its credit card accounts, it would be a financial institution because of paragraph 149(1)(*c*). Assuming the registrant did not also exceed the financial income threshold under paragraph 149(1)(*b*), it would be able to claim input tax credits in respect of inputs for use in its commercial activities and for use in related financial activities, such as its investment or capital raising activities, except those in respect of the credit card operations.

This amendment applies to property and services acquired or imported in taxation years beginning after ANNOUNCEMENT DATE.

Clause 36

Conversion of Real Property to Residential Use

ETA
190(1)(*f*)(ii)

Subsection 190(1) applies where a person converts non-residential real property into a residential complex without constructing or substantially renovating the complex. Under paragraph 190(1)(*f*), the person is deemed to be a builder. Nonetheless, an exception to that rule is made for a trust, all the beneficiaries of which are individuals and all the contingent beneficiaries of which are individuals or charities, where the trust converts the property for the purpose of using it as a place of residence for a beneficiary.

Subparagraph 190(1)(*f*)(ii) is amended as a consequence of the new definition "personal trust" in subsection 123(1) (see commentary on the definition of that term under clause 1). As a result of the amendment, the exception for trusts will apply to all testamentary trusts, but will not apply to *inter vivos* trusts, the beneficial interests in which are supplied by the trust or the settlor of the trust. The requirement under the existing legislation that a trust's beneficiaries (other than contingent beneficiaries) all be individuals and its contingent beneficiaries all be individuals, charities or public institutions, will continue to apply to *inter vivos* trusts but not to testamentary trusts.

This amendment applies after ANNOUNCEMENT DATE.

Clause 37

Self-Supply of Real Property

ETA
191(6.1)

The purpose of section 191 is to ensure that the GST applies to newly constructed or substantially renovated premises once they are rented or otherwise occupied as places of residences before being sold since the subsequent sales of those residences will generally be exempt as used housing. That section provides that, in these circumstances, the builder of a residential complex is treated as having sold and repurchased the complex. As a result, the builder is required to account for GST on the fair market value of the complex.

New subsection 191(6.1) specifically excludes from this rule certain religious communal organizations for which the *Income Tax Act* provides special treatment with respect to the businesses they carry on in support of their members. Typically, in these organizations, title to multiple-unit residential complexes is held by an incorporated entity. However, the residential complexes are generally constructed by the members of these organizations for the personal use of the members.

This amendment is effective January 1, 1991.

Clause 38

Subsidized Residential Complexes

ETA
191.1

Section 191 ensures that the GST applies to newly constructed or substantially renovanted premises once they are rented or otherwise occupied as places of residences before being sold, since the subsequent sales of those residences will generally be exempt as used housing. In these circumstances, the builder of a residential complex is treated as having sold and repurchased the complex. As a result,

the builder is required to self-assess GST on the fair market value of the complex.

New section 191.1 provides for special self-supply rules for government-funded residential buildings designed to be occupied by individuals having special needs or limited financial resources, in recognition of the fact that it is often difficult to ascertain the "fair market value" of such buildings. This new provision ensures that the builder must account for an amount of tax that is at least equal to the total of all input tax credits and rebates under section 257 that the builder was entitled to claim in respect of the residential complex.

New section 191.1 generally applies after ANNOUNCEMENT DATE. However, it does not apply if the construction or substantial renovation of a residential complex began on or before that day and is substantially completed within two years after that day where the builder, on or before that day, received government funding or has a reasonable expectation of receiving government funding in respect of the residential complex.

Clause 39

Redemption of Real Property

ETA
193(3)

Section 193 provides that, where a registrant makes a taxable sale of real property, the registrant may claim, at the time of the sale, an input tax credit for previously non-creditable or non-rebatable tax paid by the registrant in respect of the property.

New subsection 193(3) is consequential to the addition of new subsection 183(10.1), which deals with the situation where the original debtor has a right to redeem the property (see commentary on subclause 33(8)). New subsection 193(3) ensures that the input tax credit may not be claimed by the debtor upon the seizure or repossession of the property until the period during which the property may be redeemed has expired without that right being

exercised. In the event that the period does so expire at a particular time, new paragraph 193(3)(*b*) deems the input tax credit of the debtor to be for the reporting period that includes that time.

Parallel amendments are made to section 257 in relation to property of a debtor that is a non-registrant (see commentary on clause 68).

This amendment is effective on THE DAY AFTER ANNOUNCEMENT DATE.

Clause 40

Capital Property Used in Supply of Financial Services

ETA
198

Under existing section 198, to the extent that a person that is not a financial institution uses capital property in the provision of financial services relating to the person's commercial activities, the property is treated as being used in those commercial activities. As a result, the person is not required to apportion inputs.

The amended section extends the treatment to persons that are financial institutions only because of new paragraph 149(1)(*c*) (see commentary on clause 11). However, they will be treated as using capital property in exempt activities to the extent it is used in activities related to credit cards or charge cards issued by them, or activities involving the granting of advances, loans or credit.

This amendment applies to the use of property in taxation years beginning after ANNOUNCEMENT DATE.

Clause 41

Rebate for Returned or Defective Goods

ETA
215.1

This section provides a rebate of tax to importers of goods in certain situations.

Subsection 215.1(1) Rebate for Returned Goods

Existing subsection 215.1(1) provides for a rebate of tax paid on goods imported on consignment or approval where the goods are exported within sixty days for return to the supplier without having been used or consumed in Canada except on a trial basis. Existing paragraph 215.1(1)(*c*) allows the rebate to be filed within four years after the tax was paid. Amended paragraph 215.1(1)(*c*) reduces the limitation period from four years to two years. This new limitation period is consistent with similar two-year limitation periods for abatements and refunds under the *Customs Act.*

Subsection 215.1(2) Rebate for Goods Damaged

Existing subsection 215.1(2) provides for a rebate of tax paid on goods imported under certain circumstances by an unregistered small supplier where an abatement or refund of the duties paid on the goods has been granted under the *Customs Act* because the goods were damaged, of inferior quality, defective, did not include the correct quantity or were not the goods ordered. Existing paragraph 215.1(2)(*d*) allows the rebate to be filed within four years after the tax was paid. Amended paragraph 215.1(2)(*d*) reduces the limitation period from four years to two years. This new limitation period is consistent with the current limitation period for abatements and refunds under the *Customs Act.*

Subsection 215.1(3) Rebate for Goods Not Subject to Duty

Existing subsection 215.1(3) provides for a rebate in the same circumstances (and subject to the same conditions) as set out in

subsection 215.1(2) except that the goods in this case are not subject to duty. Existing paragraph 215.1(3)(*d*) allows the rebate to be filed within four years after the tax was paid. Amended paragraph 215.1(3)(*d*) reduces the limitation period from four years to two years.

These amendments apply after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE. However, the four-year limitation period will continue to apply where the tax was paid on or before the last day of that month.

Clause 42

Tax on Imported Taxable Supplies

ETA
217

Division IV of Part IX applies tax to supplies that are not otherwise taxable under Division II. This includes importations into Canada of services and intangible personal property, such as intellectual property rights. It requires persons to self-assess and remit the tax. Section 217 contains definitions of terms that apply for purposes of Division IV.

Section 217 is amended by eliminating the definition "reporting period". The existing definition differs from that in subsection 123(1) only in that it permits non-registrants to have reporting periods that are calendar quarters for purposes of Division IV whereas they are assigned calendar month reporting periods for Division II purposes. The repeal of the definition "reporting period" in section 217 means that, for purposes of Division IV, non-registrants will have reporting periods determined under subsection 245(1). Therefore, they will be obliged to report and remit the self-assessed tax under Division IV within one month after the month in which it becomes payable. It should be noted that the calendar month reporting period applies equally to non-registrants that are listed financial institutions due to the amendment to subsection 245(1) (see commentary on clause 55).

246

The remaining amendments to the English and French versions of section 217 of the Act are consequential to the repeal of the definition "reporting period" in section 217.

These amendments are effective January 1, 1997.

Clause 43

Preparation of Returns

ETA
219

Under section 219, each person liable to pay tax under Division IV of Part IX in respect of imported taxable supplies is required to file a return and account for the tax in that return.

The amendment to section 219 will allow a registrant to account for the Division IV tax becoming payable in a reporting period in the registrant's return for that period under Division II. For non-registrants, however, the requirement that a special return be filed will remain, and the Division IV tax will have to be paid by the end of the month following the calendar month in which it becomes payable.

This amendment is effective January 1, 1997.

Clause 44

Remittance of Tax

ETA
225

Section 225 sets out the general rules for determining a person's net tax for a reporting period, including rules related to the claiming of input tax credits.

Subsection 225(3) Restriction

Subsection 225(3) ensures that there is no double counting of an amount that would reduce net tax for a reporting period. The amendment clarifies that once an amount has been "claimed" in a return, it cannot be claimed again, whether or not that amount was allowable as an input tax credit or deduction in the first return.

This amendment comes into force on ANNOUNCEMENT DATE.

Subsection 225(4) Limitation

Existing subsection 225(4) allows a registrant to claim an input tax credit within four years after the due date of the return for the reporting period in which the credit could first have been claimed. Amended subsection 225(4) reduces the limitation period from four years to two years for listed financial institutions and registrants with more than $6 million in annual taxable supplies in each of the two preceding fiscal years. Under the new limitation period, an affected registrant may claim an input tax credit in determining the net tax for any reporting period that ends within two years after the beginning of the first reporting period for which the credit could have been claimed. The return in which the credit is claimed must be filed by the due date of the return for the last such reporting period. Registered charities (other than municipalities, hospital authorities, school authorities, colleges and universities who exceed the $6 million threshold) and other registrants will continue to have four years to claim input tax credits.

Generally, this amendment applies to input tax credits for reporting periods ending after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE. However, input tax credits of affected registrants for reporting periods that ended on or before the last day of that month must be claimed in a return filed on or before the day that is two years after the last day of that month.

Clause 45

Net Tax Calculation for Charities

ETA
225.1

New section 225.1 provides for a new simplified accounting method for charities to use in determining their net tax remittable. It should be noted that the definition "charity" in subsection 123(1) is amended, concurrent with the introduction of this section. The term "charity" will not include a "public institution", as newly defined in subsection 123(1). Consequently, this new method for determining net tax does not apply to persons that, although registered charities for income tax purposes, fall into the category of "public institution" for GST purposes (see commentary on the definitions "charity" and "public institution" under clause 1).

Under the method set out in new section 225.1, charities registered for GST purposes will continue to charge and collect tax on all their taxable supplies but will remit only a portion of the tax collected on their leases, rentals and sales of non-capital property and services. This method will simplify compliance for charities as it will remove the need for them to apportion their inputs on the basis of taxable and exempt supplies. They will not claim input tax credits on their non-capital inputs nor on capital or real property that is not used primarily in commercial activities; but they will be entitled to claim a 50-per-cent rebate of tax paid on all those inputs. They will continue to claim full input tax credits on their capital and real property that is used primarily in commercial activities.

Paragraph 225.1(1) Meaning of "specified supply"

New subsection 225.1(1) defines a "specified supply", which is a supply in respect of which a GST-registered charity following the new simplified accounting method will charge tax at a rate of seven per cent but remit only 60% of that tax. A specified supply is defined as a taxable supply other than:

- a sale of real property or capital property;

- a deemed supply as a result of the receipt of an amount under a warranty or of a rebate from a manufacturer or other vendor;

- a deemed supply of seized personal property;

- a deemed supply of property appropriated for the benefit of a member of the charity; and

- a supply to an employee of the charity that gives rise to a taxable benefit for income tax purposes.

Under this method, charities will not be required to account for tax in respect of amounts they receive under warranty claims or rebates from manufacturers or other vendors, nor will they have to account for tax if, as creditors, they seize personal property and take it for their own use.

Tax will be accounted for on their other supplies pursuant to the formula set out in new subsection 225.1(2).

Subsection 225.1(2) Net Tax

New subsection 225.1(2) sets out the formula for determining a charity's net tax for a reporting period under the simplified accounting method.

The amounts the charity must add in determining its net tax remittance in this manner are:

- 60% of tax collectible on specified supplies as defined in new subsection 225.1(1), for example, taxable rentals and sales of services or non-capital property;

- the total seven-per-cent tax collectible on sales of capital and real property used primarily in commercial activities including deemed taxable sales of capital and real property;

- any tax deemed payable on property appropriated to or for the benefit of a member or relative of a member of the charity;

- any tax deemed payable on goods or services provided to an employee of the charity where that taxable supply gives rise to a taxable benefit for income tax purposes;

- any amount required to be taken into account as tax as a result of the recovery of a bad debt relating to a taxable sale of real property or capital property by the charity;

- the total tax adjustments received in the period on acquisitions of real property or capital property for which the charity has previously claimed input tax credits; and

- any amount carried forward from a designated (dormant) reporting period and required under subsection 238.1(4) to be added to net tax.

The amounts that are deductible in determining the net tax remittance under this method for the reporting period are:

- input tax credits for purchases of, or improvements to, real property and capital property claimed for that reporting period;

- 60% of the total of the tax adjustments given in the period to recipients of specified supplies made by the charity and of any rebates credited in the period by the charity to certain non-residents or to recipients of certain supplies relating to foreign conventions;

- any tax adjustment given, tax written off as a bad debt, or new housing rebate credited during the period in respect of the sale of real property or capital property by the charity; and

- any input tax credit that the charity was entitled to claim and is carried forward from a reporting period in respect of which the charity was not required to use this method in determining its net tax (i.e., a reporting period beginning before 1997 or a reporting period during which an election under subsection (7) by the charity was in effect).

Subsection 225.1(3) Restriction

New subsection 225.1(3) ensures there is no double inclusion of amounts required to be added in determining net tax.

Subsection 225.1(4) Restriction

New subsection 225.1(4) precludes a GST-registered charity from including any amount in the total of all deductions from net tax if the amount was taken into account in determining net tax for a previous reporting period or was refunded to the charity under any Act of Parliament, by way of remission order or under the *Customs Tariff*.

Subsection 225.1(5) Application

New subsection 225.1(5) provides that, for the purposes of new section 225.1, subsections 225(4) to (6) apply to registrants that are charities in determining their net tax. These provisions restrict the entitlement of these registrants to claim certain input tax credits.

Subsection 225(4) allows up to four years for a registrant to claim an input tax credit. The four-year period commences on the day on or before which the return for the reporting period in which the credit could first be claimed was required to be filed.

Subsection 225(5) provides that, once a supplier transfers ownership or possession of a residential complex that has been sold on an exempt basis, the supplier cannot subsequently claim an input tax credit in respect of the complex.

Subsection 225(6) provides that a person is not permitted to claim a net tax refund in a return that is filed after the person becomes a bankrupt and that is for a reporting period that ends prior to the bankruptcy unless all returns for reporting periods that ended before the bankruptcy, and all returns under subsection 228(4) in respect of acquisitions of real property made in those reporting periods, have been filed. Moreover, all outstanding amounts in respect of those reporting periods must have been paid. The subsection further prohibits the carry-forward of input tax credits from periods prior to

the bankruptcy unless the person is current with remittances and filing obligations.

Subsection 225.1(6) Application

New subsection 225.1(6) provides that sections 231 to 236 do not apply to a GST-registered charity for purposes of determining the net tax of the charity under the new simplified method, except as otherwise provided in section 225.1.

Section 231 provides for bad-debt relief. The net tax formula in section 225.1 denies bad-debt relief to charities except with respect to their sales of real property and capital property on which they collect tax. To simplify the rules for charities, bad-debt relief on other supplies is reflected in the 60-per-cent remittance rate applicable to those supplies.

Similarly, under the formula is subsection 225.1(2), charities are restricted to claiming 60 per cent of the amount of their adjustments of tax under section 232 with respect to their taxable supplies of non-capital goods and services since they are required under this formula to remit only 60 per cent of the tax collectible in those supplies. Charities will be entitled to the full deduction under section 232 with respect to sales of real property or capital property.

The treatment of patronage dividends as set out in section 233 does not apply to charities following the method set out in section 225.1.

The net-tax formula in subsection 225.1(2) provides for deductions from net tax relating to assignments of the new housing rebate. However, with respect to assignments of non-resident rebates, charities will be entitled under this formula to deductions of only 60 per cent of any rebates to the non-residents as provided in subsection 234(2) since the charities will be required to remit only 60 per cent of the tax on the supplies to those non-residents.

The rules relating to leased passenger vehicles in section 235 do not apply to registered charities under this method of determining net tax.

Finally, subsection 225.1(6) explicitly provides that section 236, which requires a recapture of input tax credits in respect of meals and entertainment, does not apply to a charity following the new simplified accounting method. The amendments are for ease of reference only since, under the streamlined method of accounting, charities are not entitled to claim input tax credits in respect of meals, entertainment or allowances in any event.

Subsection 225.1(7) Election

Subsection 225.1(7) allows charities that make zero-rated supplies in the ordinary course of business and charities whose supplies are all or substantially all taxable supplies to elect out of using the method for determining net tax set out in new section 225.1. These charities do not face the difficulties of apportioning inputs between taxable and exempt supplies to the same extent as other charities and may be better off following the normal rules whereby they may claim input tax credits in respect of all inputs attributable to their taxable supplies.

Any charity that opts out of the simplified accounting method under new section 225.1 will not be entitled to use any other streamlined accounting method prescribed under section 227, except for the streamlined input tax credit calculation, which smaller charities may use pursuant to new subsection 225.1(11).

Once a charity that is eligible to opt out of using the method under section 225.1 does so, it will not subsequently be forced to use the method if its circumstances change, such as if it were no longer to make zero-rated supplies, or if it were to begin to make a greater percentage of exempt supplies. Therefore, once a charity has made this election, it does not have to keep track of whether it is still making zero-rated supplies in the course of its business or the extent to which it still makes taxable supplies. The charity will continue following the general rules under section 225 until the charity chooses to revoke its election.

Subsection 225.1(8) Form and Content of Election

Subsection 225.1(8) sets out the rules for how and when an election by a charity under subsection (7) is to be filed.

Subsection 225.1(9) Revocation

Subsection 225.1(9) allows a charity to revoke an election made under subsection (7) which it may wish to do should the nature of the charity's activities change such that it no longer makes zero-rated supplies or it makes a greater percentage of exempt supplies. However, a charity cannot revoke an election if it has been in effect for less than one year.

Subsection 225.1(10) Restriction on Input Tax Credits

New subsection 225.1(10) provides that, where a charity was restricted from claiming an input tax credit while following the simplified method of determining net tax under subsection 225.1(2), the charity cannot subsequently claim the credit after it elects out of the method.

Subsection 225.1(11) Streamlined Input Tax Credits

Subsection 225.1(11) allows a charity that meets the test of being a prescribed person for purposes of subsection 259(12) to use a streamlined input tax credit (ITC) calculation, regardless of which method of determining net tax it is following.

A prescribed charity is one whose total taxable supplies did not exceed $500,000 in either its preceding fiscal year or in its preceding quarter (if the election to use the streamlined ITC method becomes effective after the first quarter in its current year). Furthermore, except for charities that had made this election effective for fiscal years beginning before July 1993, there is also a purchase threshold test they must meet. The charity's total purchases of taxable property and services (not including zero-rated or exempt purchases) in the preceding fiscal year must not have exceeded $2 million and it must be reasonable to expect that such purchases in the current year will not exceed $2 million.

Where an eligible charity chooses to use the streamlined ITC method, any input tax credit in respect of personal property or services that the charity is entitled to claim may be determined by applying a factor of 7/107 to the cost of the property or service, including provincial sales taxes, gratuities, late-payment penalties and duties.

New section 225.1 applies in determining the net tax of a charity for reporting periods of the charity beginning after 1996.

Clause 46

Election for Streamlined Accounting

ETA
227

Section 227 allows eligible registrants to elect to use a streamlined accounting method to determine net tax for a reporting period.

Subclause 46(1)

Election for Streamlined Accounting – Charities

ETA
227(1)

The amendment to subsection 227(1) precludes charities from making an election to use a streamlined accounting method set out in the *Streamlined Accounting (GST) Regulations* since a new simplified method of determining net tax for charities is provided in new section 225.1 (see commentary on clause 45). Any election under section 227 previously made by a charity ceases to have effect immediately before its first reporting period beginning after 1996. At that time, the charity will automatically switch to the new simplified method unless it qualifies to elect out of using that method and does so. Even then, it will not be permitted to use any other streamlined accounting method except the streamlined input tax credit calculation if it is eligible.

The amendment applies for purposes of determining the net tax of a charity for reporting periods beginning after 1996.

Subclause 46(2)

Application

ETA
227(6)

Existing section 227 is amended to add subsection 227(6), which provides that, for purposes of determining net tax by the methods set out in the *Streamlined Accounting (GST) Regulations*, sections 231 to 236 do not apply except as otherwise provided in those Regulations.

These sections contain rules for adding or deducting various amounts in determining net tax. This amendment is made for clarification purposes only and applies as of January 1, 1991, the implementation date of the streamlined accounting methods.

Clause 47

Calculation, Remittance and Refund of Tax

ETA
228

Section 228 deals with the requirement to calculate net tax in a return. In addition, this section deals with remittances and refunds of net tax.

Subclause 47(1)

Tax on Purchase of Real Property

ETA
228(4)

Subsection 228(4) deals with tax payable on the purchase of real property from a person who, under subsection 221(2), is not required to collect tax on the sale. Under the existing legislation, the purchaser is required to remit any tax payable on the purchase directly to the Receiver General and to file with the Minister of National Revenue a special return to account for the tax.

As of January 1, 1997, registrants purchasing property under these circumstances will not have to file a special return provided the property has been purchased for use or supply primarily in the course of the registrant's commercial activities. In these cases, tax will be reported in the registrant's regular return for the reporting period in which the tax became payable. The registrant will pay that tax not later than the filing-due date of that return. In any other case – i.e., where the purchaser is not a registrant or where the property is not acquired for supply or use primarily in commercial activities of the purchaser – the requirement that a special return be filed will remain, and the tax will have to be paid by the end of the month following the calendar month in which it becomes payable.

Further minor wording changes are made, effective on ANNOUNCEMENT DATE, to specify the circumstances in which subsection 228(4) applies, thus obviating the need for the cross-reference to subsection 221(2) and the exclusion for deemed supplies. This change is made for clarification purposes only.

Subclause 47(2)

Set-Offs

ETA
228(6) and (7)

Subsection 228(6) provides for a mechanism to allow a person to offset any tax remittable by any net tax refund or rebate claimed by that person in another return. This prevents the situation where a person claiming a refund or rebate on one return or application is nonetheless required to remit tax reported on another return and wait until the first return or application has been processed before receiving the refund or credit. Subsection 228(7) provides authority for the tax payable or remittable at any time by a person to be offset by the amount of any refund or rebate to which a closely related person is entitled. The amendments to subsections 228(6) and (7) extend the application of the offset provisions to tax payable under Division IV of Part IX of the Act.

The wording of these subsections has also been amended to reflect the changes to section 219 and subsection 228(4), which remove, for most registrants, the requirement that special returns be filed to report the tax remittable under subsection 228(4) or Division IV (see also commentary on clause 43).

The amendments to subsections 228(6) and (7) are effective on ANNOUNCEMENT DATE.

Clause 48

Overpayment

ETA
230

Section 230 requires the Minister of National Revenue to pay a refund to a person of any amount paid on account of the person's net

tax for a reporting period that exceeds the actual net tax remittable for the period.

Subsection 230(1) Refund of Overpayment

Existing subsection 230(1) requires the Minister to refund an overpayment for a reporting period with all due dispatch after the return for the period is filed. Amended subsection 230(1) clarifies that such an overpayment may arise from instalment payments or from other payments made on account of net tax. The amended provision also confirms that the refund must be claimed in a return for the reporting period.

Subsection 230(2) Restriction

Subsection 230(2) prohibits the Minister from refunding an overpayment to a person unless the person is up to date in filing GST returns. The change to subsection 230(2) is consequential to the changes to subsection 230(1) and reflects the revised wording of that subsection.

Subsection 230(3) Interest on Refund

Existing subsection 230(3) requires the Minister to pay interest on a refund from 21 days after the later of the day the person filed the return in which the refund was claimed and the day the person files all outstanding GST returns. The change to subsection 230(3) is consequential to the changes to subsection 230(1) and reflects the revised wording of that subsection.

These amendments take effect on ANNOUNCEMENT DATE and apply to all payments made by the Minister on or after that day.

Clause 49

Special GST Credit for Certified Institutions

ETA
230.2(2)(*d*)

Existing section 230.2 provides a special GST credit to registered charities and not-for-profit organizations that were certified under the former federal sales tax system pursuant to Part XIV of Schedule III to the Act. Under the GST, certified institutions collect tax on their taxable supplies and are entitled to input tax credits in respect of their purchases. In determining the amount of tax remittable to the government, however, section 230.2 allows certified institutions to deduct a portion of the tax collectible during certain periods on their sales of manufactured goods. The section provides for a gradual decrease in the deductible portion over the period 1991 to 1994.

Amended paragraph 230.2(2)(*d*) extends the special GST credit for one additional year, until December 31, 1995. The amendment allows registered certified institutions to continue to claim a special credit equal to 25 per cent of the GST that became collectible or was collected by them in 1995 on specified sales.

The amendment was announced in the Department of Finance Press Release of December 9, 1994 and is effective on January 1, 1995.

Clause 50

Bad Debts

ETA
231

Subsection 231(1) Bad Debts

Currently, where an account receivable becomes a bad debt, the vendor may claim bad-debt relief if the bad debt is written off in the

businesses' books. Subsection 231(1) provides that the vendor may claim a deduction equal to the tax fraction of the bad debt written off.

To clarify the amount that the vendor may claim, a formula is added to subsection 231(1). Specifically, the deduction is equal to the tax payable in respect of the supply multiplied by the ratio of the total amount of the bad debt written off, including GST and applicable provincial taxes, to the total amount payable for the supply including GST and applicable provincial taxes.

The new formula applies for the purpose of determining the net tax for any reporting period for which a return is filed after ANNOUNCEMENT DATE.

Subsection 231(2) Closely Related Groups

Under the existing legislation, a deduction for bad debts written off in respect of a taxable supply is available to the person who made the supply or to a listed financial institution that is a member of a closely related group of which the supplier is a member and that purchased the receivable at face value on a non-recourse basis. Amended subsection 231(2) extends this rule to include persons that are not "listed financial institutions" but are financial institutions because of paragraph 149(1)(*b*) or new paragraph 149(1)(*c*).

This amendment applies to accounts receivable written off after ANNOUNCEMENT DATE.

Subsection 231(3) Recovery of Bad Debt

Under the existing legislation, where a person has claimed an input tax credit in respect of a bad debt, and the debt is subsequently recovered, subsection 231(3) requires that an amount equal to the tax fraction of the amount recovered be added to the person's net tax.

To clarify the amount that is recoverable, a formula is added to the subsection. Specifically, the amount required to be added is equal to the bad debt recovered by the person in respect of a supply multiplied by the ratio of the tax payable in respect of the supply to the total

amount paid or payable on the supply, including GST and applicable provincial taxes.

This amendment applies for the purpose of determining the net tax for any reporting period for which a return is filed after ANNOUNCEMENT DATE.

Subsection 231(4) Limitation

Existing section 231 permits a person to claim the bad debt deduction in determining the person's net tax for any reporting period that ends within four years after the end of the reporting period in which the bad debt was written off. New subsection 231(4) reduces the limitation period for claiming the deduction from four years to two years. Under the new limitation period, the deduction must be claimed in a return filed within two years after the due date of the return for the reporting period in which the bad debt was written off.

This amendment applies after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE. However, the four-year limitation period will continue to apply to amounts written off as bad debts on or before the last day of that month.

Clause 51

Tax Adjustments

ETA
232

Section 232 sets out rules relating to refunds and adjustments of tax.

Subsection 232(1) Refund or Adjustment of Tax

Existing subsection 232(1) authorizes a supplier who has erroneously collected an amount as tax from a customer to refund it to the customer or provide the customer with a credit. Where the erroneous amount has been charged but not collected, the supplier may adjust the amount of tax charged. Under the existing rules, the refund,

credit or adjustment may be made up to four years after the end of the reporting period in which the supplier charged or collected the amount in error. Amended subsection 232(1) reduces the limitation period for making the refund, credit or adjustment to two years from the day the amount was charged or collected.

This amendment applies to amounts charged or collected as tax after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE. This amendment also applies to amounts charged or collected as tax on or before the last day of that month unless the amounts are adjusted, refunded or credited on or before the day that is two years after the last day of that month.

Subsection 232(2) Adjustment

Existing subsection 232(2) authorizes a supplier to adjust tax charged on a supply to reflect a reduction in price. Where the tax has not been collected, the registrant may adjust the amount of tax charged. Where the tax has been collected, the registrant is allowed to refund or credit the excess tax to the recipient. The registrant is given up to four years after the end of the reporting period in which the consideration was reduced to adjust the tax. Amended subsection 232(2) requires the adjustment to be made within two years from the day the consideration for the supply is reduced.

This amendment applies to reductions in consideration made after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE. The four-year limitation period will continue to apply to reductions in consideration made on or before the last day of that month.

Clause 52

Deduction for Rebate

ETA
234(1)

The amendment adding the reference to subsection 252.41(2) in subsection 234(1) is consequential to the introduction of new section 252.41 (see commentary on clause 61). That section provides for a rebate to a non-resident person in respect of installation services acquired in Canada in certain circumstances. Under amended subsection 234(1), a registered supplier of an installation service who has paid or credited an amount on account of a rebate to a non-resident person in accordance with subsection 252.41(2) may deduct the amount in determining the installer's net tax.

This measure applies after ANNOUNCEMENT DATE.

Clause 53

Food, Beverages and Entertainment

ETA
236(2)

Section 236 provides for a recapture of 50 per cent of the total of all input tax credits that a registrant is entitled to claim in a fiscal year in respect of meals and entertainment. This ensures that the GST treatment of meals and entertainment expenses is consistent with the income tax rules, which allow a registrant to deduct only 50 per cent of an amount paid or payable in respect of entertainment services, food or beverages, in determining income.

Subsection 236(2) provides that this rule does not apply to charities, which are defined in existing subsection 123(1) as entities that are registered charities for purposes of the *Income Tax Act*. The subsection is amended as a consequence of the amendment to the definition "charity" in subsection 123(1) (see commentary on the

definition "charity" under clause 1). Persons that meet the new definition of "public institution" in subsection 123(1), such as school authorities, hospital authorities, universities and public colleges that are registered charities for income tax purposes, will not be considered "charities" for GST purposes. Accordingly, subsection 236(2) is amended to refer to public institutions so that they will continue to be excluded from the rules in section 236.

This amendment applies to supplies of food, beverages or entertainment that a registrant receives, and allowances paid by a registrant, after 1996.

Clause 54

Voluntary Registration

ETA
240

Section 240 sets out the registration requirements for purposes of the tax.

Subclause 54(1)

Registration Permitted

ETA
240(3)

Subsection 240(3) permits persons engaged in a commercial activity in Canada and certain other specified persons to apply to become registered for purposes of the GST. It enables a non-resident person who, in the ordinary course of business, solicits orders for the delivery of goods in Canada to apply for registration even though those activities may not constitute the carrying on of a business in Canada.

The amendment extends voluntary registration to non-residents who supply goods for export to, or delivery in, Canada. It also allows

voluntary registration to non-residents who supply services to be performed in Canada. Further, it permits non-residents to register where they supply intangible personal property that is to be used in Canada, or that relates either to real or tangible personal property ordinary situated in Canada or to services to be performed in Canada.

This amendment applies after ANNOUNCEMENT DATE.

Subclause 54(2)

Security

ETA
240(6) and (7)

Subsection 240(6) provides that, in the case of an application for registration by a non-resident person who carries on a commercial activity in Canada but does not have a "permanent establishment" in Canada, security has to be posted and maintained by the applicant in an amount and form satisfactory to the Minister that the person will collect and remit tax as required under Division V of Part IX.

The term "permanent establishment" in respect of a particular person is defined in subsection 123(1) as including not only a fixed place of business of the particular person, but also a fixed place of another person who acts in Canada on behalf of the particular person. Therefore, the particular person may be exempted from the application of subsection 240(6) even though the person does not have a fixed place of business in Canada.

This amendment extends the security requirements to all non-residents who are registered or are required to be registered and who do not make supplies through their own fixed place of business in Canada.

Subsection 240(6) is also amended to provide the Minister of National Revenue with the authority to require an amount of security from a person to cover all amounts payable or remittable by the person under Part IX.

New subsection 240(7) provides the Minister of National Revenue with the authority to retain, out of any GST refund or rebate to which a person is otherwise entitled, any amount of security that the person fails to give or maintain as required under subsection 240(6).

These amendments are effective on Royal Assent.

Clause 55

Reporting Period of Non-Registrant

ETA
245

Section 245 sets out the general rules for determining a registrant's reporting period for which GST returns are required to be filed.

Subclause 55(1)

ETA
245(1)

Existing subsection 245(1) provides that the reporting period of a person who is not a registrant is a calendar month. The only exception is for listed financial institutions, whose reporting periods are fiscal years. To provide uniform treatment for all non-registrants, this exception is eliminated.

This amendment applies to fiscal years of a listed financial institution beginning after ANNOUNCEMENT DATE.

Subclauses 55(2) and (3)

ETA
245(2)(*a*)(ii)

Subsection 245(2) establishes the reporting periods for which GST returns are required to be filed by registrants.

The reporting periods that are deemed, under subsection 251(1), to be separate reporting periods upon becoming a registrant are ignored for the purposes of the rules in section 245. The amendment to the preamble to subsection 245(2) and to subparagraph 245(2)(*a*)(ii) clarifies that periods that are deemed to be separate periods by virtue of any of sections 265 to 267 dealing with trusts, bankruptcies and receiverships are also ignored.

These amendments apply after 1992.

Subclauses 55(4) to (8)

ETA
245(2)(*a*)(iii) and (*b*) to (*d*)

The amendment adding subparagraph 245(2)(*a*)(iii) ensures that charities (as newly defined in subsection 123(1)) are annual filers for GST purposes unless they elect to file quarterly or monthly. This change applies to fiscal years beginning after 1996.

New subparagraph 245(2)(*a*)(iv) replaces existing paragraph 245(2)(*c*), which is repealed. Paragraphs 245(2)(*b*) and (*d*) are amended as a consequence.

The amendment to subparagraph 245(2)(*b*)(*i*) ensures that a charity's reporting period will no longer depend on the amount of taxable supplies made by it in the preceding year.

These changes apply to fiscal years beginning after 1996.

Clause 56

Election for Fiscal Quarters

ETA
247

Section 247 entitles any person whose revenue in a fiscal year from taxable supplies does not exceed $6 million to elect to have fiscal

quarters as reporting periods for purposes of filing GST returns in the following fiscal year. The amendments to section 247 ensure that charities (as newly defined in subsection 123(1)) are entitled to elect to file quarterly and to maintain that filing period, regardless of the value of their yearly taxable supplies.

These amendments apply to fiscal years of charities beginning after 1996.

The section is also amended to clarify, as of ANNOUNCEMENT DATE, that persons who become registrants in a fiscal year can make the election, if they satisfy the threshold test, as of the day they become a registrant. Note that subsection 251(1) treats that day as the first day of the person's first reporting period.

Clause 57

Election for Fiscal Years

ETA
248

Under existing section 248, a person may elect to file GST returns annually, generally where the total consideration becoming due for taxable supplies made by the person does not exceed $500,000 during the preceding year. The amendments to section 248 ensure that charities (as newly defined in subsection 123(1)) are entitled to elect, as of the first day of a fiscal year, to file annually, and to maintain that filing period, regardless of the value of their taxable supplies during the preceding year. This change applies to fiscal years beginning after 1996.

Subsection 248(1) is also amended to clarify that the election under that subsection is available only if the person is a registrant. This amendment applies to fiscal years beginning after March 31, 1994, the date as of which the subsection was last amended.

Clause 58

Non-Resident Rebate in Respect of Exported Goods

ETA
252(1)(*a*)

Paragraph 252(1)(*a*) excludes purchases of used specified tangible personal property from eligibility for non-resident rebates under section 252. This paragraph is repealed as a consequence of the elimination of special rules for used specified tangible personal property in section 176 (see commentary on clause 25). As a result, a non-resident person will be able to claim a rebate for tax on purchases made in Canada of specified tangible personal property that is exported or taken by the person out of Canada within 60 days of the day it is delivered to that person.

This amendment applies to property acquired after ANNOUNCEMENT DATE.

Clause 59

Rebate of Tax on Accommodation Supplied to Non-Residents

ETA
252.1

Existing section 252.1 provides a rebate of tax paid on short-term accommodation that is made available to non-resident consumers. The amendments to the section extend the rebate to non-resident businesses.

Subclause 59(1)

Definitions

ETA
252.1

Subsection 252.1(1) is amended by deleting the definition "short-term accommodation". That definition is amended and moved to subsection 123(1) (see commentary on the amended definition under clause 1).

This amendment is effective January 1, 1991.

Subclause 59(2)

Accommodation Rebate to Non-Resident Persons

ETA
252.1(2)

Existing subsection 252.1(2) provides for rebates to non-resident consumers for tax paid on short-term accommodation. Under the existing legislation, a business cannot claim the rebate for employees travelling on business.

The amendment to paragraph 252.1(2)(*b*) removes the restriction that the accommodation be acquired otherwise than for use in the course of a business. Therefore the rebate is available where accommodation is made available to a non-resident proprietor or an employee travelling on business.

The amendment to paragraph 252.1(2)(*c*) replaces the word "consumer" with the word "individual" to ensure that the rebate is available where the accommodation is made available to a proprietor acquiring it in the course of his or her business. However, as under the existing provision, no rebate is available where the accommodation is acquired for supply in the ordinary course of a business (e.g., by a tour operator selling tour packages in Canada).

The marginal note for subsection 252.1(2) has been modified to reflect the intent of the amended subsection.

This amendment applies to any rebate for which an application is received by the Minister of National Revenue after ANNOUNCEMENT DATE.

Subclause 59(3)

Rebate for Unregistered Non-Resident Tour Operators

ETA
252.1(3)(*d*)

Subsection 252.1(3) entitles an unregistered non-resident tour operator to a rebate in respect of short-term accommodation that the operator acquires and resells to non-resident persons at a place outside of Canada at which the tour operator or the operator's agent is conducting business. The existing subsection provides that a rebate may be claimed by an unregistered tour operator only to the extent that the accommodation is ultimately made available to a non-resident consumer. The amendment to paragraph 252.1(3)(*d*) ensures that the tour operator may claim the rebate to the extent the accommodation is made available to a non-resident individual, including, for example, where a non-resident business acquires accommodation to be made available to a non-resident employee.

This amendment applies to any rebate for which an application is received by the Minister of National Revenue after ANNOUNCEMENT DATE.

Subclauses 59(4) and (5)

Calculation of Rebate for Accommodation Only

ETA
252.1(4)

This subsection provides a simplified method that non-resident consumers eligible for a rebate under subsection 252.1(2) in respect

of short-term accommodation that is not part of a tour package may use to calculate that rebate. They can claim $5 per night instead of claiming the actual tax paid in respect of the short-term accommodation. The amendment ensures that this method of calculating the rebate is not available to businesses that acquire the accommodation for employees travelling on business. The rebate claimed in respect of such accommodation is to be calculated by the business based on the actual tax paid on the supply of the short-term accommodation.

The reference in the French version of subsection 252.1(4) to a consumer to whom the accommodation is made available is replaced by a reference to an individual. This addresses situations where the accommodation is not acquired by the individual but by an organization, such as a club, for the benefit of the individual but otherwise than for use in a business of the organization.

These amendments apply to any rebate for which an application is received by the Minister of National Revenue after ANNOUNCEMENT DATE.

Subclauses 59(6) and (7)

Tax in Respect of Tour Package

ETA
252.1(5) of the French Version

The French version of paragraphs 252.1(5)(*a*) and (*b*) refers to accommodation made available to a consumer. The reference to consumer is replaced by a reference to an individual to reflect the change allowing a rebate to be paid to a non-resident person that is not an individual and that acquires accommodation for use by a non-resident individual.

This amendment applies to any rebate for which an application is received by the Minister of National Revenue after ANNOUNCEMENT DATE.

Subclause 59(8)

Calculation of Accommodation Rebate in Respect of a Tour Package

ETA
252.1(5)(*b*)

Subsection 252.1(5) sets out the rules for calculating a rebate in respect of short-term accommodation included in a tour package. The amendment to the description of C in the formula set out in paragraph 252.1(5)(*b*) replaces references to "consumer" with references to "individual" since amended subsection 252.1(2) extends the rebate to cases where accommodation is made available to a non-resident individual travelling on business.

This amendment applies to any rebate for which an application is received by the Minister of National Revenue after ANNOUNCEMENT DATE.

Subclause 59(9)

Multiple Supplies of Accommodation for the Same Night

ETA
252.1(6) and (7)

Existing subsections 252.1(6) and (7) provide that a person may not claim a rebate calculated on the basis of $5 per night for more than one supply of short-term accommodation from the same supplier for any given night. The amendments to subsection (6) clarify that this provision is applicable only in respect of accommodation acquired by a consumer.

The amendments to subsection (7) provide that the limitation on the use of the $5 per night formula in relation to accommodation included in a tour package does not apply to businesses, which can claim more than one rebate on that basis for accommodation acquired from the same supplier for the same night.

This amendment applies to any rebate for which an application is received by the Minister of National Revenue after ANNOUNCEMENT DATE.

Subclauses 59(10) and (11)

Deduction for Rebate Credited by a Registrant

ETA
252.1(8)(*a*) and 252.1(8)(*d*)(ii)(A) of the French Version

Section 252.1 provides that a supplier of short-term accommodation may claim a deduction from net tax equal to a rebate otherwise payable under subsection 252.1(2) or (3) to a customer. This, in many cases, relieves non-resident tour operators and individuals of having to file applications in order to obtain the benefit of the rebates.

The amendment to paragraph 252.1(8)(*a*) ensures that the deduction may be claimed where the non-resident recipient is not a consumer, in accordance with the extension of the rebate to businesses. Accordingly, subclause 59(11) amends the French version of the subsection to replace a reference to a consumer by a reference to an individual.

These amendments apply to any rebate for which an application is received by the Minister of National Revenue after ANNOUNCEMENT DATE.

Clause 60

Non-Resident Rebate for Short-Term Accommodation

ETA
252.2

Section 252.2 sets out restrictions on the claiming of rebates under section 252 or subsection 252.1(2) or (3).

Subclause 60(1)

General Restrictions on Rebate Claims

ETA
252.2(*d.1*) and (*e*)

Section 252.2 imposes certain restrictions on rebates claimed by non-resident persons for tax paid on exported goods and on certain short-term accommodation acquired by them while visiting Canada.

This amendment increases, from $7 to $14, the minimum total amount that may be claimed in an application. It also adds a new requirement that each receipt filed in support of the application include GST totalling at least $3.50.

These changes apply to rebate applications received by the Minister of National Revenue after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE.

Subclause 60(2)

Rebates for Short-Term Accommodation

ETA
252.2(*g*)

Existing paragraph 252.2(*g*) limits a rebate of tax paid on short-term accommodation included in a tour package to $75 where the application for the rebate is based on the $5-per-night formula. The paragraph is amended to provide that, for rebates claimed by businesses, the $75 limit applies to each individual for whom the claim is made.

This amendment applies to rebate applications received by the Minister of National Revenue after ANNOUNCEMENT DATE.

Clause 61

Non-Resident Rebate Respecting Installation Services

ETA
252.41

New section 252.41 provides for a rebate to be paid in certain specified circumstances to a non-resident person who is not registered for GST purposes. The rebate is in respect of tax paid by the non-resident on the service of installing in Canada tangible personal property.

To qualify for the rebate, subsection 252.41(1) requires that tangible personal property be supplied on an installed basis by an unregistered non-resident person to a registered person. Also, the non-resident person who supplies the property or another unregistered non-resident person must be the recipient of a taxable supply in Canada of installing the tangible personal property in real property located in Canada for the use of the registered recipient of the tangible personal property.

For example, if a registered person purchased a generator from a non-resident supplier who was responsible for the installation of the generator in real property in Canada but who entered into an agreement with another registered person to perform the installation, the non-resident would be eligible for a rebate of GST paid on the installation service. The rebate is also available where the unregistered non-resident supplier of the tangible personal property acquires the installation service from an unregistered non-resident who in turn hires a registered installer to perform the installation service in Canada. In these circumstances, the non-resident recipient of the taxable installation service would be eligible for the rebate provided the other requirements of the provision are met.

Paragraph 252.41(1)(*a*) requires that the application for the rebate by the unregistered non-resident recipient of the installation service be filed within one year after the completion of the service.

Paragraph 252.41(1)(*b*) is relevant for purposes of the self-assessment rules relating to "imported taxable supplies" in Division IV of Part IX of the Act. The paragraph deems the registered recipient of the tangible personal property supplied on an installed basis to have received from the unregistered non-resident supplier of the property a separate supply of the installation service. Also, the installation service is deemed not to be incidental to the supply of the property. Further, the supply of the installation service is deemed to be for consideration equal to that part of the total consideration paid or payable by the registered recipient for the property and its installation that can reasonably be attributed to the installation. This ensures that the registered recipient of the tangible personal property is required to self-assess the GST under subsection 218(1) on that portion of the consideration paid to the unregistered non-resident supplier that can be reasonably attributed to the installation service where the property is for use otherwise than exclusively in a commercial activity.

Subsection 252.41(2) provides that the unregistered non-resident recipient of the installation service may submit an application for a rebate to the registered installer, rather than to the Minister of National Revenue. In these circumstances, the installer may pay to or credit in favour of the non-resident the amount of the GST rebate. A consequential amendment to subsection 234(1) permits the installer to deduct the amount of GST paid or credited to the non-resident in determining the net tax of the installer for the reporting period in which the amount is paid or credited. The installer is required to submit the rebate application form to the Minister of National Revenue with the return filed for the reporting period in which the rebate was paid or credited to the non-resident.

Subsection 252.41(3) provides that, where an installer pays or credits the rebate to the non-resident recipient of the service and the installer knew or ought to have known that the non-resident was not entitled to the amount paid or credited as a rebate, the installer and the non-resident are jointly and severally liable to repay, to the Minister of National Revenue, the amount paid or credited in error to the non-resident.

The rebate is available for any supply of installation services made after ANNOUNCEMENT DATE.

Clause 62

Employees and Partners

ETA
253(1)

Section 253 provides a rebate to certain employees and members of partnerships for the tax on expenses that are deductible in computing, for income tax purposes, the employee's income from employment, or the partner's income.

Paragraph 253(1)(*a*) is amended to ensure that, in the case of a member of a partnership, the rebate provision applies notwithstanding new subsection 272.1(1), which otherwise deems an acquisition or importation by the member for consumption, use or supply in the course of the partnership's activities to be made by the partnership and not by the member (see commentary on clause 76).

New paragraph 253(1)(*a*.1) is added to ensure that the expenses eligible for a rebate under section 253 are those that have not been incurred on the account of the partnership. Where the acquisition is made on the account of the partnership, the partnership may still be eligible to claim an input tax credit.

Existing paragraph 253(1)(*b*) refers to tax payable in respect of an acquisition or importation. Amended paragraph 253(1)(*b*) provides that the tax payable must have been paid before there is an entitlement to the rebate.

The formula in existing subsection 253(1) for calculating the rebate is amended to ensure that reimbursements that an employee or partner received or is entitled to receive from the employer or partnership are subtracted from the amount deducted under the *Income Tax Act* in computing the employee's or partner's income. This amendment addresses situations where the *Income Tax Act* does not already require a given expense deduction to be calculated net of reimbursements.

These amendments apply as of January 1, 1991 but do not apply for the purpose of determining any rebate for which an application was received at a Revenue Canada office before ANNOUNCEMENT DATE.

Clause 63

New Housing Rebate

ETA
254

This section provides for a partial rebate of the GST paid by an individual who purchases a newly-constructed house, condominium unit or single-unit residential complex for use as a primary place of residence for the individual, a related individual or a former spouse.

Subsection 254(3) Application for Rebate

Existing subsection 254(3) allows an individual up to four years to claim the new housing rebate from the time the individual acquires ownership of the newly-constructed residential complex. Amended subsection 254(3) reduces the limitation period for claiming the rebate from four years to two years.

Subsection 254(4) Application to Builder

The vendor, at the time of the sale, may credit the amount of the new housing rebate against tax owing by the purchaser. Under existing paragraph 254(4)(*c*), if the purchaser was not credited the rebate at the time of purchase, he or she still has up to four years after taking ownership of the residential complex to claim the rebate by filing an application with the vendor. Amended paragraph 254(4)(*c*) reduces the limitation period for making application to the vendor from four years to two years.

These amendments apply to any rebate in respect of a residential complex where ownership of the complex is transferred to the applicant after THE SECOND CALENDAR MONTH BEGINNING

AFTER ANNOUNCEMENT DATE. The four-year limitation period will continue to apply where ownership is transferred to the rebate applicant on or before the last day of that month.

Clause 64

New Housing Rebate for Building Only

ETA
254.1

Section 254.1 provides for a rebate to the purchaser of a new house who leases from the builder, on a long-term basis, the land on which the house is built.

Subclause 64(1)

Definition "long-term lease"

ETA
254.1(1)

The expression "long-term lease" is defined for purposes of section 254.1 which provides for a rebate to a purchaser of a new house on land leased from the builder under a long-term lease. One of the circumstances in which a lease qualifies as a "long-term lease" is where it has a term of at least twenty years. The amendment to the definition "long-term lease" clarifies that the test is based on the period of continuous possession provided under the lease.

This clarification is consistent with similar wording changes made to the definitions "residential trailer park" and "residential complex" in subsection 123(1) as well as to sections 6, 7 and 8.1 of Part I of Schedule V and subparagraph 25(*f*)(i) of Part VI of that Schedule.

For consistency, these wording changes all apply on, or in relation to supplies made on or after, September 15, 1992, the date as of which subparagraph 25(*f*)(i) was last amended. However, these amendments do not apply for the purposes of determining any amount claimed in

a return under Division V, or in an application under Division VI, that was received at a Revenue Canada office before ANNOUNCEMENT DATE.

Subclause 64(2)

Single Unit Residential Complexes and Condominium Units

ETA
254.1(2)

The amendment to paragraph 254.1(2)(*a*) extends the application of the rebate in respect of new housing built on leased land to sales of residential condominium units built on leased land.

This amendment applies to any rebate for which an application is filed with the Minister of National Revenue on or after ANNOUNCEMENT DATE.

Subclause 64(3)

Exception

ETA
254.1(2.1)

New subsection 254.1(2.1) provides that a rebate under section 254.1 in respect of a residential complex is not available where the builder was deemed to have made a taxable supply of the complex under subsection 191(1) but is exempt under another Act or law from the payment of tax in respect of the deemed supply.

This amendment is effective January 1, 1991 but does not apply to a rebate for which an application was received at a Revenue Canada office before ANNOUNCEMENT DATE.

Subclauses 64(4) and (5)

Applications

ETA
254.1(3) and (4)

Existing subsection 254.1(3) allows a purchaser of a residential complex up to four years from the time the purchaser takes possession of the complex to claim the rebate under section 254.1. Amended subsection 254.1(3) reduces the limitation period for claiming the rebate from four years to two years.

The purchaser may assign the rebate in exchange for a credit against tax payable to the builder on the purchase. Existing paragraph 254.1(4)(*b*) provides that if, at the time the supply is made, the amount of the rebate is not credited or paid by the builder to the purchaser, the purchaser has four years from the time possession is transferred to make an application to the builder for the rebate. Amended paragraph 254.1(4)(*b*) reduces the limitation period for making application to the builder from four years to two years.

These amendments apply to any rebate in respect of a residential complex where possession of the complex is transferred to the applicant after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE. The four-year limitation period will continue to apply where possession is transferred to the rebate applicant on or before the last day of that month.

Clause 65

Co-operative Housing Rebate

ETA
255

Section 255 provides a partial rebate of GST, comparable to that under section 254, where an individual purchases a share in a

co-operative housing corporation for the purpose of using a new residential unit of the corporation as a primary place of residence for the individual, a related individual or a former spouse.

Existing subsection 255(3) provides that an individual has up to four years after the day the ownership of the share is transferred to claim the rebate. New subsection 255(3) reduces the limitation period for making application from four years to two years.

This amendment applies to a rebate in respect of a share of the capital stock of a cooperative housing corporation ownership of which is transferred to the applicant after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE. The four-year limitation period will continue to apply where ownership of the share is transferred to the rebate applicant on or before the last day of that month.

Clause 66

Rebate for Owner-Built Homes

ETA
256

Section 256 provides a partial rebate of the GST paid by an individual who builds or substantially renovates his or her own primary place of residence or hires another person to do so.

The amendment to paragraph 256(2)(*a*) extends the application of the rebate in respect of owner-built homes to residential condominium units.

New subsection 256(2.01) denies a rebate under section 256 in respect of any improvement to a residential complex that is under construction or substantial renovation if the tax on the improvement becomes payable more than two years after the day the complex is first occupied after the construction or substantial renovation is begun.

Existing subsection 256(3) provides that a rebate under section 256 in respect of a residential complex shall not be paid unless an application is filed within two years after the earlier of the following two dates:

- the day the complex is first occupied after its construction or substantial renovation is begun or the day ownership is transferred to another person without the complex having been occupied, as the case may require; and

- the day construction or substantial renovation of the complex is substantially completed.

Under this rule, if a complex that is being renovated is occupied before the work is substantially completed, the owner has only two years to apply for the rebate after taking occupation, even if it takes longer to complete the work. Any construction or renovation costs incurred after that two-year period would not qualify for the rebate.

Under the amended rule, in the case of a complex that is occupied while it is being constructed or renovated, the owner may apply for the rebate up to two years after the construction or renovation is substantially completed, provided that the complex is substantially completed within two years of the date of occupation. If the owner takes longer to complete the work, the time limit for filing the application is nevertheless four years from the date of occupation.

These changes apply to any rebate in respect of a residential complex for which an application is filed on or after ANNOUNCEMENT DATE except where:

- the complex was occupied as a place of residence or lodging between the time its construction or substantial renovation began and ANNOUNCEMENT DATE,

- the construction or substantial renovation of the complex was substantially completed before ANNOUNCEMENT DATE, or

- the complex was sold by the applicant, and ownership was transferred to the purchaser before ANNOUNCEMENT DATE.

Clause 67

Rebate to Owner of Land Leased for Residential Purposes

ETA
256.1

This section provides a rebate of tax to a lessor of certain residential land where the tax was paid by the lessor in purchasing or improving the land. Generally, the rebate is available where the land has been leased under exempt conditions to a person who will be required to self-assess tax on the use of the land for residential purposes.

Existing subsection 256.1(2) provides that an application for the rebate must be filed before the day that is four years from the time the lessee self-supplies under section 190 or 191. New subsection 256.1(2) reduces the limitation period for filing the application from four years to two years. Under the new limitation period, the application must be filed on or before the day that is two years after the self-supply occurs.

This amendment applies to any rebate in respect of land that is deemed to have been self-supplied after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE. The four-year limitation period will continue to apply where the self-supply occurs on or before the last day of that month.

Clause 68

Non-Registrant Sale of Real Property

ETA
257

Section 257 provides a rebate to a non-registrant who makes or is deemed to make a taxable supply of real property by way of sale. The rebate is based on the tax the non-registrant paid on the purchase of the property and that was not recovered by the non-registrant by way of an input tax credit or rebate.

Subsection 257(2) Application for Rebate

Existing subsection 257(2) provides that the application for rebate under this section must be made within four years after the day consideration for the sale was paid or became due to the non-registrant. Amended subsection 257(2) reduces the limitation period from four years to two years.

This amendment applies to any rebate in respect of a supply of real property for which all of the consideration becomes due, or is paid without having become due, after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE. Where all or part of the consideration becomes due or is paid on or before the last day of that month, the four-year limitation period will continue to apply.

Subsection 257(3) Redemption of Real Property

New subsection 257(3) addresses situations where the non-registrant's property has been seized or repossessed by a creditor but the non-registrant has a statutory right or a right under an agreement relating to a debt security to redeem the property. In this case, the non-registrant is not entitled to claim the rebate under section 257 unless and until the time limit for redeeming the property has expired without the non-registrant exercising the right. A related amendment is made to section 183 (see commentary on subclause 33(8)).

Under new paragraph 257(3)(*d*), the non-registrant is treated as having become entitled to claim the rebate on the day the time limit for redemption expired. Therefore, the limitation period for claiming the rebate begins on that day.

Amendments similar to those explained above are also made to section 193 (see commentary on clause 39).

This amendment is effective on THE DAY AFTER ANNOUNCEMENT DATE.

Clause 69

Public Service Body Rebate

Section 259 of the Act entitles qualifying public service bodies to a rebate of the tax paid by them on inputs for which they are not entitled to claim an input tax credit.

Subclause 69(1)

Definition "claim period"

ETA
259(1)

The definition "claim period" in subsection 259(1) is used to identify the period in respect of which a rebate under section 259 can be claimed. It has the effect of limiting the number of rebate applications that can be made in a year. Under the existing legislation, non-registrants can claim a rebate in respect of each of their fiscal quarters. This amendment reduces the number of claims they can file each year to two. Their first and last two fiscal quarters will be their two claim periods.

This amendment applies to claim periods in fiscal years beginning after 1996.

Subclause 69(2)

Definition "non-creditable tax charged"

ETA
259(1)

The term "non-creditable tax charged" is defined in subsection 259(1) and refers to amounts that the rebate applicant is or was required to pay as tax (net of input tax credits) and that are therefore potentially rebatable.

Existing subparagraph (*a*)(ii) of the definition includes amounts that an applicant that is a registrant is deemed to have collected when, as a creditor, the registrant seizes property from a debtor and takes that property to the registrant's own use. The registrant is ordinarily then required to remit that tax. However, under the streamlined accounting method for charities set out in new section 225.1 (see the commentary on clause 45), charities following that method are not required to include tax deemed to have been collected in these cases in their net tax remittances. The reference to such tax is therefore removed from subparagraph (*a*)(ii) of the definition "non-creditable tax charged" and new subparagraph (*a*)(ii.1) of the definition adds the tax only where it is deemed to have been collected by a person other than a charity that determines its net tax under the new simplified method.

This amendment applies to tax deemed to have been collected by charities during reporting periods beginning after 1996.

Subclause 69(3)

Definition "selected public service body"

ETA
259(1)

The definition "selected public service body" in subsection 259(1) is amended by adding the criterion, in relation to public colleges, that they be established and operated otherwise than for profit in order to

be eligible for a rebate under the section. This is consistent with the criterion that currently applies to school authorities and universities.

This amendment applies for the purpose of determining rebates under section 259 in respect of non-creditable tax charged for claim periods beginning after ANNOUNCEMENT DATE.

Subclause 69(4)

Rebate for Persons Other Than Designated Municipalities

ETA
259(3)

This subsection provides authority for the Minister of National Revenue to pay rebates to charities, qualifying non-profit organizations and selected public service bodies other than persons designated as municipalities under section 259. A similar rebate is available for the latter group under subsection 259(4).

This subsection is amended to provide that the calculation of the rebate is subject to the rules set out in new subsection 259(4.1) (see commentary on subclause 69(6)).

This amendment applies to rebates for which applications are received at a Revenue Canada office after ANNOUNCEMENT DATE.

Subclause 69(5)

Rebate for Designated Municipalities

ETA
259(4)

This subsection provides authority for the Minister of National Revenue to pay rebates to organizations that are designated as municipalities in respect of certain activities for purposes of section 259.

This subsection is amended to provide that the calculation of the rebate is subject to the rules set out in new subsection 259(4.1) (see commentary on subclause 69(6)).

This amendment applies to rebates for which applications are received at a Revenue Canada office after ANNOUNCEMENT DATE.

Subclause 69(6)

Apportionment of Rebates

ETA
259(4.1)

New subsection 259(4.1) is added to provide specific rebate apportionment rules for selected public service bodies that act in different capacities. These bodies include a hospital authority, school authority, university, public college or person determined under subsection 123(1), or designated under section 259, to be a municipality. Subsection 259(4.1) applies to any selected public service body that engages in activities as a charity, public institution (see commentary on the definition "public institution" under clause 1) or qualifying non-profit organization that are separate from other activities undertaken in its capacity as a selected public service body.

New subsection 259(4.1) requires these organizations to apportion inputs related to their exempt activities for purposes of determining the amount of their rebate. They are entitled to recover at least 50% of the tax paid on these inputs. However, to the extent that inputs are for consumption, use or supply in operating their respective facilities – for example, a hospital in the case of a hospital authority or a school in the case of a school authority – or, in the case of a municipality, fulfilling its responsibility as a local authority, they are entitled to apply the higher rebate rate applicable to the selected public service body category in which they fall. For example, if a religious order, as a charity, operated a hospital and undertook other activities that were unrelated to operating the hospital, the order would be entitled to an 83-per-cent rebate for inputs into exempt activities relating to the operation of the hospital and a 50-per-cent rebate in relation to other exempt activities.

Where an organization falls into more than one category of selected public service body and also engages in unrelated charitable or non-profit activities, it is also required to apportion rebates. For example, if a charity runs a hospital and a public college in addition to having other activities unrelated to the operation of either facility, it is required to apportion its rebate for exempt activities as follows: 83 per cent for its inputs relating to the operation of the hospital, 67 per cent for its inputs relating to the operation of the public college, and 50 per cent for all other exempt activities.

Where an organization acts in the capacity of more than one type of selected public service body (e.g., it operates a hospital and a university) but has no other activities, it must follow the apportionment rules set out in existing subsections 259(7) and (8). It need not concern itself with the rules in new subsection 259(4.1) as well.

For persons designated to be municipalities only for the purposes of section 259, these amendments apply as of January 1, 1991. In all other cases, these amendments apply to rebates for which applications are received at a Revenue Canada office after ANNOUNCEMENT DATE.

Subclause 69(7)

Election for Streamlined Accounting

ETA
259(12)

Existing subsections 259(12) to (15) set out rules relating to an election by a public service body that meets certain prescribed size criteria to determine its rebate under section 259 in a simplified manner. Under this method, it is not necessary to separate out the GST, provincial sales tax and gratuities paid in respect of a purchase in order to calculate the rebate.

The amendments remove the requirement for a formal election. Any public service body that qualifies as a prescribed person may determine its rebate in the simplified manner.

These amendments apply for the purpose of determining rebates for claim periods beginning after ANNOUNCEMENT DATE.

Clause 70

Charity Exports

ETA
260

Existing section 260 provides for a rebate to a charity for GST paid on goods or services for which it is not entitled to claim an input tax credit and that are exported by it for charitable purposes.

The amendment removes the reference to "charitable purposes" outside Canada. As a result, the rebate may be used by the charity to recover tax paid on all exported goods and services that it acquires and exports, including those bought and exported in the course of a commercial activity of the charity. The rebate mechanism is needed to relieve these exports of tax because, under the new streamlined method of accounting provided to charities under subsection 225.1, charities following that method will be entitled to input tax credits only in respect of capital personal property and real property (see commentary on clause 45).

This change applies to goods or services on which tax becomes payable or is paid without having become due after ANNOUNCEMENT DATE.

Section 260 is also amended, as of January 1, 1997, as a consequence of the new definition of "charity" in subsection 123(1) (see commentary on clause 1). The amended definition excludes entities that are registered charities for the purposes of the *Income Tax Act* and are "public institutions" as newly defined in subsection 123(1) (see commentary on the definition "public institution" under clause 1). Specific references to those institutions are added to section 260 to ensure that the rebate continues to be available to them.

Clause 71

Rebate of Payment Made in Error

ETA
261

This section provides that where a person pays or remits an amount of tax, net tax, penalty or interest that is later found not to be payable or remittable, the person may claim a rebate of that amount.

Existing subsection 261(3) provides that an application for the rebate must be filed by the person within four years after the amount was paid or remitted. New subsection 261(3) reduces the limitation period from four years to two years.

This amendment applies to amounts paid or remitted after THE SECOND CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE. This amendment also applies to amounts paid or remitted on or before the last day of that month unless the amounts are claimed in an application filed on or before the day that is two years after the last day of that month.

Clause 72

Trustees in Bankruptcy

ETA
265(1)(*a*)

Section 265 sets out the rules that apply to trustees in bankruptcy and bankrupts. In essence, the trustee in bankruptcy is treated as an agent of the bankrupt. As such, acquisitions and supplies effected by the trustee but made in the course of a commercial activity of the bankrupt are treated as having been made by the bankrupt.

For greater certainty, paragraph 265(1)(*a*) is amended to expressly provide that, while acting in the capacity of the trustee in bankruptcy, a trustee is providing a service to the bankrupt and any amounts to

which the trustee becomes entitled for doing so are consideration for the supply of the service.

This amendment applies as of January 1, 1991.

Clause 73

Estates and Trusts

ETA
267 to 269

Section 267 Estates

Existing section 267 sets out the rules dealing with the passing of property of a deceased individual to the executor of the individual's will or the administrator of the individual's estate.

Existing subsection 267(1) provides that the transfer of the property to the executor is treated for GST purposes as a supply for no consideration. The property is then treated as being used by the executor immediately after its transferral for the same purposes for which it was used by the deceased before death. In addition, the executor is treated as having paid any tax on the property that was paid by the deceased and as having claimed any input tax credits that were claimed by the deceased. This allows the claiming of an input tax credit in appropriate circumstances in respect of tax paid by the deceased when the property is subsequently sold or distributed by the estate.

The existing rules in subsection 267(1) are intended to place the estate of a deceased individual in the same position that the individual was in. However, these rules fall short in that they address only the treatment of property. New section 267 serves to broaden the rules by deeming all the provisions of Part IX of the Act – subject to sections 267.1, 269 and 270 – to apply to the estate of the individual as though the individual had not died. As a result, rules that apply to individuals, such as the exclusion from the definition

"builder" in subsection 123(1) and the New Housing Rebate under section 254, would also apply to the individual's estate.

To clarify the personal representative's filing responsibilities, new paragraphs 267(*a*) and (*b*) provide rules for determining reporting periods on the death of an individual. The individual's reporting period ends on the day the individual dies, and the estate's first reporting period begins the next day and ends on the day the individual's reporting period would have ended had the individual not died.

Section 267.1 Trusts

New section 267.1 sets out rules to clarify the GST treatment of the on-going operations of both testamentary and *inter vivos* trusts.

Subsection 267.1(1) Definitions

Since the same rules are to apply to trusts and estates, to avoid repetition, a reference in new section 267.1, or any of sections 268 to 270, to a "trust" also includes a reference to an estate of a deceased individual. Similarly, a reference in these sections to a "trustee" includes a reference to the personal representative of a deceased individual. "Personal representative" is newly defined in subsection 123(1) (see commentary on the definition "personal representative" under clause 1).

Subsection 267.1(2) Trustee's Liability

Subsection 267.1(2) is added to clarify the obligations imposed on trustees including personal representatives of a deceased individual. Each trustee is liable to satisfy an obligation such as the requirement to file. However, the satisfaction of that obligation by one trustee removes the liability of the other trustees.

Subsection 267.1(3) Joint and Several Liability

Subsection 267.1(3) is added to clarify the extent of joint and several liability imposed on a trustee (or personal representative) with the trust (or estate). Such a liability exists for all amounts payable or

remittable by the trust while the trustee acts as a trustee of the trust. The liability extends to periods before the trustee began acting as a trustee of the trust, but only to the extent of the property and money under the control of the trustee. Also, the joint liability is discharged to the extent of the amount that either the trust or trustee pays or remits in respect of the liability.

Subsection 267.1(4) Waiver

New subsection 267.1(4) provides the Minister of National Revenue with the authority to waive the requirement for a personal representative of a deceased individual to file a return for a reporting period of the individual ending on or before the day the individual died. This removes the burden on the representative to file a return where, for example, the representative has insufficient information with which to prepare a return.

Subsection 267.1(5) Activities of a Trustee

For greater certainty, new subsection 267.1(5) is added to explicitly provide that, when acting in the capacity as a trustee of a trust in the course of a business of doing so (i.e., the trustee is not an "officer" as newly defined in subsection 123(1)), the trustee supplies services to the trust, and any amounts to which the trustee is entitled for doing so are consideration for those supplies. In every other respect, however, anything done by a person in their capacity as a trustee of a trust is considered to have been done by the trust. This provision also applies to executors of estates. This rule is consistent with the existing inclusion of trusts and estates in the definition "person" in subsection 123(1).

Section 268 *Inter Vivos* Trusts

Existing section 268 provides that, where property is settled by a person on an *inter vivos* trust, the transfer is to be treated for GST purposes as a sale of the property by the person to the trust. Consideration for the sale is equal to the amount determined for income tax purposes to be the proceeds of disposition of the property.

There are no substantial changes to section 268. For legislative consistency, the expression "shall be" is changed to the term "is".

Section 269 Distribution by Trust

Existing section 269 provides that, subject to sections 265 (bankruptcy rules), 266 (receivership rules) and 267 (rules pertaining to the passing of property from a deceased individual to the personal representative of the deceased), where a trustee distributes property of the trust to a beneficiary of the trust, the trust is treated as having made a supply of the property. The consideration for the supply is deemed to be the amount determined for income tax purposes to be the proceeds of disposition of the property.

The references to sections 265 to 267 are unnecessary and they are therefore removed in amended section 269. Section 265 already provides that the estate of a bankrupt is deemed not to be a trust or estate while, in section 266, a receiver is deemed not to be a trustee. The reference to section 267 is unnecessary since sections 267 and 269 do not conflict.

The new definitions "trust" and "trustee" in new subsection 267.1(1) ensure that section 269 applies to all estates of deceased individuals, including estates in which the property is not held in trust.

Section 269 is also amended to apply to distributions of property to persons who are not beneficiaries of the trust. As a result, where a beneficiary assigns or otherwise transfers title in the beneficiary's interest in the trust or estate to another person, the distribution to that person is deemed to be a supply made by the trust to the person for consideration equal to the amount determined under the *Income Tax Act* to be the proceeds of disposition of the property.

These amendments apply as of January 1, 1991 except for the change to section 269 dealing with distributions to persons who are not beneficiaries of the trust, which applies to distributions made after ANNOUNCEMENT DATE, and the amendments to paragraphs 267(*a*) and (*b*) relating to the reporting periods of estates, which apply only where the estate is created on the death of an individual after ANNOUNCEMENT DATE.

Clause 74

Representatives

ETA
270(1)

Section 270 provides that a "representative" handling the estate or administering or winding-up a commercial activity or a business of a person must obtain a certificate from the Minister of National Revenue before distributing any property or money under the representative's control. "Representative" is defined in existing subsection 270(1) to include, among other persons, an executor, within the meaning assigned by subsection 267(2), of an individual who is a registrant.

Paragraph (*b*) of the definition "representative" in subsection 270(1) is amended to replace the reference to an "executor" by a reference to a trustee of a trust that is a registrant. This amendment is consequential to the repeal of the definition "executor" in section 267 and the addition of new subsection 267.1(1), which provides that a reference to a trustee includes a reference to a personal representative. "Personal representative", as newly defined in subsection 123(1) (see commentary on the definition of that expression under clause 1), has essentially the same meaning as "executor" in existing subsection 267(2).

This amendment takes effect on THE DAY AFTER ANNOUNCEMENT DATE. The references in existing section 270 to an "executor" are replaced by references to a "personal representative".

300

Clause 75

ETA
Heading for Subdivision b of Division VII

This heading is changed to remove the reference to "joint ventures" as a consequence of the addition of a new separate subdivision b.1 containing the rules for both partnerships and joint ventures.

This amendment applies as of THE DAY AFTER ANNOUNCEMENT DATE.

Clause 76

Partnerships

ETA
272.1

New section 272.1, which replaces existing section 145, provides a more detailed set of rules pertaining to the activities, liabilities, formation and dissolution of a partnership.

Subsection 272.1(1) Things Done by Members

Under existing subsection 145(1), where a person engages in an activity as a member of a partnership, that activity is treated as an activity of the partnership rather than of the member. As a consequence, partners are not required to register separately for GST purposes. New subsection 272.1(1), which replaces existing subsection 145(1), similarly provides a general rule that anything done by a partner in his or her capacity as a partner is deemed to have been done by the partnership and not by the partner.

This amendment applies as of THE DAY AFTER ANNOUNCEMENT DATE.

Subsection 272.1(2) Acquisitions by Member

New subsection 272.1(2) provides exceptions to the general rule in subsection 272.1(1) where a partner acquires or imports property or services for consumption, use or supply in the course of the partnership's activities but not on the account of the partnership.

New paragraph 272.1(2)(*a*) deems the partnership not to have acquired or imported the property or service except as otherwise provided under subsection 175(1), which applies where there is a reimbursement by the partnership to the partner (see commentary on clause 24). Nevertheless, the partner may still be eligible to claim an input tax credit as explained below.

Under existing subsection 145(2), where a corporation that is a member of a partnership and registered for GST purposes incurs expenses outside the partnership but that relate to a commercial activity of the partnership, the corporation is treated as being engaged in the commercial activity. This has the effect of enabling the corporate partner to claim an input tax credit for the expenses.

New paragraph 272.1(2)(*b*), which replaces existing subsection 145(2), extends the input tax credit eligibility to any partner other than an individual. As a result, a partner such as a corporation, trust or other partnership, whether or not it engages in an activity separate from the partnership, is able to register (provided the partnership carries on a commercial activity) and claim input tax credits on its own GST returns for the tax payable by it on its purchases relating to commercial activities of the partnership. The partner would also account for any changes in use of the property as required under subdivision d of Division II. Individuals who are partners will continue to be eligible to claim the employee-partner rebate under section 253 (see commentary on clause 62).

This change applies as of THE DAY AFTER ANNOUNCEMENT DATE and also applies for the purpose of determining any input tax credit for a reporting period beginning on or before ANNOUNCEMENT DATE that is claimed in a return received at a Revenue Canada office on or after that day.

New paragraph 272.1(2)(*c*) applies where a partner incurs an expense relating to the partnership but not on the account of the partnership, and the partner is reimbursed by the partnership in circumstances in which new subsection 175(2) applies. New paragraph 272.1(2)(*c*) provides that, in this case, any input tax credit that the partner claims in the partner's separate GST return must be reduced by the amount of the input tax credit that the partnership is entitled to claim in respect of the reimbursement. Pursuant to new subsection 175(2), the partnership is entitled to claim an input tax credit in respect of the expense only if the reimbursement is made before the partner files a return in which the partner claims an input tax credit for the expense (see commentary on clause 24).

Paragraph 272.1(2)(*c*) applies as of THE DAY AFTER ANNOUNCEMENT DATE. In addition, it applies to input tax credits for reporting periods that began on or before ANNOUNCEMENT DATE where they are claimed in returns received at a Revenue Canada office on or after that day.

Subsection 272.1(3) Supply to Partnership

New subsection 272.1(3) is added to deem the amount of consideration for supplies made by a partner (or prospective partner) to a partnership otherwise than in the course of the partnership's activities. For example, this section would apply where a partner has a separate business and provides property or services from that business to the partnership.

Paragraph 272.1(3)(*a*) fixes the consideration for such a supply where the property or service is for use exclusively in commercial activities of the partnership. Any amount that is paid or credited to the partner is deemed to be consideration for the supply, whether it be cash or an increase in the supplying partner's interest in the partnership. The consideration is deemed to become due when the amount is so paid or credited.

Where the property or service is not for consumption, use or supply exclusively in the course of commercial activities of the partnership, paragraph 272.1(3)(*b*) provides that the consideration is deemed to be equal to the fair market value of the property or service that is so

acquired by the partnership at the time the supply is made. The fair market value is determined as though the partner and partnership were dealing at arm's length and represents the value of the entire property or service, including the supplying partner's interest in it.

This provision applies to supplies made after ANNOUNCEMENT DATE. Transitional rules are provided with respect to supplies made on or before ANNOUNCEMENT DATE. In this case, the existing rules apply for the purpose of determining whether there has been an underpayment of tax. However, the proposed rules will apply for the purpose of determining whether there has been an overpayment. If the tax charged or collected on a supply made on or before ANNOUNCEMENT DATE exceeds the amount payable under the existing rules and a rebate application under subsection 261(1) was received at a Revenue Canada office before ANNOUNCEMENT DATE, the amount of the rebate will be determined in accordance with the existing rules. However, if the application is received on or after ANNOUNCEMENT DATE, a rebate will be payable only to the extent that the amount charged or collected exceeds the amount payable under the new rules.

Subsection 272.1(4) Deemed Supply to Partner

Subsection 272.1(4) is added to clarify the GST treatment upon the disposal of property from a partnership to a person who ceases to be a member of the partnership or who, at the time the disposition was agreed to or arranged, was a partner or had agreed to become one. In these circumstances, the deemed appropriation rule in subsection 172(2) does not apply. Rather, the partnership is deemed to have made a supply of the property to the person for consideration equal to the fair market value of all of the partners' interests in the property at the time of the transfer.

This subsection applies to dispositions after ANNOUNCEMENT DATE. Transitional rules are provided with respect to dispositions on or before ANNOUNCEMENT DATE. In this case, the existing rules apply for the purpose of determining whether there has been an underpayment of tax. However, the proposed rules will apply for the purpose of determining whether there has been an overpayment. If the tax charged or collected in respect of a disposition made on or

before ANNOUNCEMENT DATE exceeds the amount payable under the existing rules and a rebate application under subsection 261(1) was received at a Revenue Canada office before ANNOUNCEMENT DATE, the amount of the rebate will be determined in accordance with the existing rules. However, if the application is received on or after ANNOUNCEMENT DATE, a rebate will be payable only to the extent that the amount charged or collected exceeds the amount payable under the new rules.

Subsection 272.1(5) Joint and Several Liability

Subsection 272.1(5) is added to specify the extent of joint and several liability imposed on a person who is a partner or former partner (other then a limited partner who is not a general partner). Such a liability exists for all amounts that become payable or remittable by the partnership before or during the period in which the person is a member of the partnership. Where the person was a member at the time of the dissolution of the partnership, the joint and several liability also extends to amounts that become payable or remittable after the dissolution. The liability of a person for amounts that became payable or remittable before the person became a partner is limited to the property and money of the partnership. Also, in all cases, the joint liability is discharged to the extent of the amount that any partner pays or remits in respect of the liability.

Such partners and former partners are also jointly and severally liable with the partnership for all other obligations for which the partnership is liable, such as filing returns.

This provision applies to amounts that become payable or remittable after ANNOUNCEMENT DATE and to all other amounts and obligations outstanding after that day.

Subsection 272.1(6) Continuation of Partnership

New subsection 272.1(6) is added to clarify the rules applicable to a partnership upon the addition or departure of a partner. For the purposes of the GST, the old partnership is deemed to continue to exist until its registration is cancelled.

This provision applies as of THE DAY AFTER ANNOUNCEMENT DATE.

Subsection 272.1(7) Continuation of Predecessor Partnership by New Partnership

New subsection 272.1(7) is added to establish rules applicable to partnership reorganizations such as the dissolution of a partnership into two separate partnerships. Unless the new partnership applies for a new registration, it is deemed to be a continuation of the predecessor where the majority of the members of the new partnership also formed a majority of the members of the predecessor and together had more than a 50-per-cent interest in the capital of the predecessor. Further, those members must have transferred to the new partnership all or substantially all of the property distributed to them in settlement of their capital interests in the predecessor.

This amendment applies as of THE DAY AFTER ANNOUNCEMENT DATE.

Clause 77

Electronic Filing and Execution of Documents

ETA
278.1 and 279

Section 278.1 Electronic Filing

New section 278.1 provides for the use of electronic media for filing GST returns.

Under subsection 278.1(2), the Minister of National Revenue has authority to specify the format, etc., in which information is to be transmitted using electronic media in order to be compatible with, and meet the requirements of, Revenue Canada's systems. This subsection requires a person who wishes to file electronically to apply to the Minister for that purpose. Subsection 278.1(3) provides that, where the Minister is satisfied that the applicant meets the criteria for

electronic filing, authorization may be given to file GST returns by means of electronic media. Subsection 278.1(4) enables the Minister to revoke such an authorization at the applicant's request, where the applicant fails to comply with any condition of the authorization or with the provisions of Part IX generally, or where the authorization is no longer required. Finally, subsection 278.1(5) stipulates that a return filed electronically is considered to have been received by the Minister in prescribed form only when the Minister acknowledges acceptance of it.

The new section applies after September 1994.

Section 279 Execution of Documents

Section 279 provides that any return, certificate or other document required to be provided under Part IX by a person other than an individual has to be signed by an individual duly authorized for that purpose. The amendment to this section, which is consequential to the introduction of electronic filing for GST returns, provides an exception to that requirement for returns that are filed electronically.

This amendment applies after September 1994.

Clause 78

Assessments

ETA
296

Section 296 authorizes the Minister of National Revenue to assess persons for their liabilities under Part IX of the Act. In assessing the net tax remittable by a person, the Minister may take into account various amounts that the person has failed to claim as an input tax credit, deduction, refund or rebate and may refund an overpayment or apply it against other liabilities under Part IX. In assessing tax payable by a person or an input tax credit claimed in error to recover tax paid by the person, the Minister may take into account any rebates of that tax that the person has failed to claim.

Paragraph 296(1)(e) Assessments

Existing subsection 296(1) provides the Minister of National Revenue with the authority to assess a person for net tax and other amounts payable or remittable under Part IX of the Act. The amendment to paragraph 296(1)(e) is consequential to the amendments to the partnership provisions of the Act under new section 272.1, which codify the joint and several liability of partners for partnership debts. Amended paragraph 296(1)(e) also authorizes the Minister to assess members of a joint venture for their liabilities under the Act.

This amendment takes effect on Royal Assent.

Subsection 296(2) Allowance of Unclaimed Credit

Existing subsection 296(2) authorizes the Minister to take unclaimed input tax credits and deductions into account in assessing a person's net tax for a reporting period, where the assessment is made within the standard four-year assessment period. Under amended subsection 296(2), the Minister may continue to take an input tax credit for a reporting period (i.e., an input tax credit claimed to recover tax that became payable in the period) into account in determining the net tax for that period within the four-year period for assessing that period, even if the limitation period for claiming the credit has expired. However, an input tax credit for the period may not be allowed if the Act has been amended to disallow a claim for the credit for that period. The same rules apply to unclaimed deductions, although a deduction may be taken into account only if the limitation period for claiming it did not expire before the due date of the return for the reporting period.

This amendment takes effect on THE FIRST DAY OF THE THIRD CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE.

Subsection 296(2.1) Allowance of Unclaimed Rebate

New subsection 296(2.1) authorizes the Minister to apply unclaimed rebates against any outstanding liabilities under Part IX of the Act. An unclaimed rebate may be applied unless the limitation period for

claiming it expired before the outstanding liability arose or an amendment to the Act would disallow a claim for that rebate. Unapplied rebates may be applied against other liabilities or refunded under amended subsection 296(3). New subsection 296(2.1) replaces the existing rebate offset provisions in existing subsections 296(4) and (4.1).

This amendment takes effect on THE FIRST DAY OF THE THIRD CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE.

Subsection 296(3) Application or Payment of Excess Credit or Rebate

Existing subsection 296(3) authorizes the Minister to apply an overpayment of net tax for a particular reporting period against any net tax liability for any other reporting period for which a return has been filed. Interest on the overpayment may also be applied. The interest accrues from 21 days after the later of the due date of the return for the particular period and the day the return for the particular period was filed, and accrues until the due date of the return for the other reporting period.

Amended subsection 296(3) also authorizes the Minister to apply an overpayment of net tax against net tax liabilities that arose before or after the reporting period to which the overpayment relates, whether the return for the other period has been filed or not. As well, the Minister may apply the overpayment against other types of GST liability, such as unpaid taxes, penalty and interest. Amended subsection 296(3) also authorizes the Minister to apply unapplied rebates against these past and future liabilities. In cases where an overpayment arose from an excessive payment made after the return for the reporting period was filed, interest accrues from the date the excessive payment was made.

Existing subsection 296(3) authorizes the Minister to refund an overpayment of net tax to the extent that it has not been applied against other liabilities, with interest to the day the refund is paid. Amended subsection 296(3) also authorizes the Minister to refund unapplied rebates with interest. In cases where an overpayment arose

from an excessive payment made after the return was filed, interest will accrue from the date the excessive payment was made.

These amendments takes effect on THE FIRST DAY OF THE THIRD CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE.

Subsection 296(3.1) Limitation on Applying Overpayments

New subsection 296(3.1) restricts the application or refund of overpayments. An overpayment of net tax for a person's reporting period can only be applied against liabilities that arose within the period allowed for claiming input tax credits for that reporting period. For example, if a listed financial institution has an overpayment for a reporting period that ends after 1996, the overpayment may be applied against any liability that the institution defaulted in paying before the reporting period began or in the two-year period following the beginning of that reporting period. Similarly, an overpayment of net tax for a reporting period may not be refunded unless the assessment for the reporting period is issued before the expiration of the period allowed for claiming input tax credits for that reporting period and, consistent with existing sections 229 and 230, the person is up to date in filing returns.

This amendment takes effect on THE FIRST DAY OF THE THIRD CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE.

Subsection 296(3.2) Limitation on Applying Allowable Rebates

New subsection 296(3.2) restricts the application or refund of rebates. A rebate can only be applied against liabilities that existed at a time when the rebate could have been claimed in a rebate application. Similarly, a rebate may not be paid to the person being assessed unless the assessment is issued at a time when the rebate could have been claimed in a rebate application and, consistent with existing sections 229 and 230 of the Act, the person is up to date in filing returns.

This amendment takes effect on THE FIRST DAY OF THE THIRD CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE.

Subsection 296(4) Exception

Existing subsections 296(4) and (4.1) authorize the Minister to offset an unclaimed rebate of tax against an outstanding liability to pay that tax or a disallowed input tax credit that was claimed to recover that tax. These offsets are replaced by new subsection 296(2.1).

Amended subsection 296(4) authorizes the Minister to apply or refund an overpayment arising from an unclaimed input tax credit after the limitation period for claiming the credit has expired in two cases.

Where the Minister assesses a particular person's supplier for failing to charge and collect tax from the particular person, the Minister may credit the particular person for the input tax credit, provided that the particular person pays the tax to the supplier and the supplier pays the assessment. Also, where the Minister has assessed another person for claiming an input tax credit that the particular person should have claimed, the Minister may credit the particular person for the input tax credit, provided that the applicable tax has been paid by the particular person and the other person who incorrectly claimed the input tax credit has paid the assessment. In both cases, any resulting overpayment by the particular person may be applied against any other liability of the particular person or refunded to the particular person, even after the limitation period for claiming the input tax credit has expired. The particular person is entitled to receive interest on the overpayment unless the Minister has waived any penalty and interest payable by the supplier or other person in respect of the transaction in question.

These amendments take effect on THE FIRST DAY OF THE THIRD CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE.

Subsection 296(5) Deemed Claim or Application

Existing subsection 296(5) provides that where an amount is taken into account, applied or refunded in the course of making an assessment, the person being assessed is deemed to have applied for the amount and the Minister is deemed to have refunded it. Where it is applied against a liability of the person being assessed, the person is deemed to have satisfied the liability to the extent of the amount applied. The amendments to subsection 296(5) are consequential to the amendments to subsections 296(2) to (4) and ensure consistency in the terminology used throughout the amended subsections.

These amendments take effect on THE FIRST DAY OF THE THIRD CALENDAR MONTH BEGINNING AFTER ANNOUNCEMENT DATE.

Clause 79

Period for Assessment

ETA
298

Section 298 sets out the limitation periods with respect to assessments under section 296.

The amendment to paragraph 296(1)(*f*) is consequential on the amendment to paragraph 296(1)(*e*) of the Act, which authorizes the Minister to assess members of a partnership or joint venture for their liabilities under the Act. Under amended paragraph 296(1)(*f*), the Minister generally will not be permitted to assess such a person more than four years after the person became liable to pay the amount that the Minister is assessing.

This amendment takes effect on Royal Assent.

Clause 80

Binding Effect of Assessment

ETA
299(3.1)

New subsection 299(3.1) is added to establish the scope of the binding effect of an assessment by the Minister of National Revenue on an unincorporated body – i.e., a person other than an individual or corporation – such as a trust, unincorporated association or partnership.

Paragraph 299(3.1)(*a*) provides that the assessment is valid even where one or more of the persons liable for the obligations of the body do not receive a notice of the assessment.

Paragraph 299(3.1)(*b*) provides that the assessment of a body is binding on each member of the body that is liable for the body's obligations, subject to a reassessment of the body and the rights of the body to appeal.

Finally, paragraph 299(3.1)(*c*) provides that the assessment of a member in respect of the same matter as the assessment of the body is binding on the member subject only to a reassessment of the member and to the member's rights of objection and appeal on certain grounds. Those grounds are that the member is not a person who is liable to pay or remit an amount for which the body is assessed, the body has been reassessed, or the assessment of the body has been vacated.

New subsection 299(3.1) applies on Royal Assent.

Clause 81

Notice of Assessment

ETA
300

Section 300 requires the Minister of National Revenue to send a notice of assessment to anyone who has been assessed and sets out what may be included in a notice of assessment.

Existing subsection 300(2) provides that a notice of assessment may include assessments of more than one reporting period or transaction. Amended subsection 300(2) provides that a notice of assessment may cover assessments of any number or combination of reporting periods, rebates, transactions or other amounts payable or remittable under Part IX of the Act.

This amendment takes effect on Royal Assent.

Clause 82

Objection to Assessment

ETA
301

Section 301 deals with objections and appeals to assessments under Part IX of the Act.

Subclause 82(1)

Meaning of "specified person"

ETA
301(1)

Existing subsection 301(1) gives a person who is dissatisfied with an assessment the right to file a notice of objection with the Minister of

National Revenue within 90 days from the day of mailing of the notice of assessment. That subsection is renumbered as subsection 301(1.1).

New subsection 301(1) defines the expression "specified person", which is relevant for the purposes of determining which persons are subject to the new rules set out in subsections 301(1.2) to (1.5) that require notices of objection to specify the issues in controversy and other information relevant in the resolution of the dispute.

"Specified persons" refers to listed financial institutions and registrants with annual taxable supplies in excess of $6 million in each of their two preceding fiscal years (determined in accordance with subsection 249(1)). Registered charities (other than municipalities, hospital authorities, school authorities, colleges and universities, whose annual supplies exceed this threshold) are excluded from the definition "specified person". The specified persons will be subject to the new rules where they object to an assessment for which a notice of assessment is issued after THE CALENDAR MONTH THAT INCLUDES ANNOUNCEMENT DATE.

Subclause 82(2)

ETA
301(1.2) to (1.6)

New subsection 301(1.2) requires each person who objects to an assessment to specify the issue in controversy in the notice of objection and to provide an estimate of the change in any amount relevant for the purposes of the assessment, such as an increase in allowable input tax credits, should the objection be successful. Facts and reasons in support of the person’s position on each issue must also be provided.

New subsection 301(1.3) allows the Minister of National Revenue to request the taxpayer to provide the required information with respect to an issue where it was not provided in the notice of objection. If the taxpayer provides the information in writing within 60 days of the

request, it will be treated as having been provided in the notice of objection.

New subsection 301(1.4) precludes appellants from raising new issues or revising the relief sought with respect to an issue in an objection to an assessment made under subsection 301(3), except where that assessment is made pursuant to a notice of objection to another assessment made under subsection 274(8). That subsection requires that the Minister of National Revenue consider, with all due dispatch, a request for reassessment submitted by a person who was party to a transaction to which the general anti-avoidance rule under subsection 274(2) applied where another person was reassessed in respect of the same transaction.

New subsection 301(1.5) provides that the limitation in subsection 301(1.4) does not apply to limit a person's right to object to a new issue raised for the first time by Revenue Canada in an assessment made under subsection 301(3).

These amendments apply to any assessment where the notice of assessment is issued after THE CALENDAR MONTH THAT INCLUDES ANNOUNCEMENT DATE, except if it is issued pursuant to a notice of objection in respect of an earlier assessment made on or before the last day of that month. For notices of objection filed on or before 1997, the reference to "charity" in subparagraph 301(1)(*b*)(ii) is replaced with a reference to "charity (other than a school authority, as public college, a university, a hospital authority or a local authority determined under paragraph (*b*) of the definition "municipality" in subsection 123(1) to be a municipality)".

New subsection 301(1.6) precludes any person from filing a notice of objection with respect to an issue for which the person has waived, in writing, the right to object.

This particular amendment applies after ANNOUNCEMENT DATE to waivers signed at any time.

316

Clause 83

Appeals

ETA
306.1

Section 306 provides that a person who has objected to an assessment may appeal to the Tax Court of Canada to have the assessment vacated or to have a reassessment made.

New subsection 306.1(1) precludes "specified persons" (within the meaning of new subsection 301(1) – see comments under clause 82) from appealing an assessment to the Tax Court of Canada if the issue to be decided was not specified in the notice of objection to the assessment in the manner required by new subsection 301(1.2). They are also precluded from revising the relief sought with respect to an issue. These restrictions do not apply if the issue was a new issue raised for the first time by Revenue Canada in an assessment made under subsection 301(3).

This amendment applies to appeals instituted after the day on which the amendment receives Royal Assent where a notice of assessment is issued after THE CALENDAR MONTH THAT INCLUDES ANNOUNCEMENT DATE, except where the assessment is issued pursuant to a notice of objection in respect of an earlier assessment made on or before the last day of that month.

New subsection 306.1(2) precludes any person from appealing an issue to the Tax Court of Canada on an issue in respect of which the person has waived, in writing, the right to object.

This amendment applies after the day on which it receives Royal Assent to waivers signed at any time.

Clause 84

Proof of Return

ETA
335(12.1)

New subsection 335(12.1) provides that a document presented by the Minister of National Revenue purporting to be a print-out of information received by the Minister under new section 278.1 by means of electronic media is, in the absence of evidence to the contrary, *prima facie* proof that the return was received (see commentary on clause 77).

This new section applies after September 1994.

Clause 85

Definition "improvement"

ETA
Schedule V, Part I, section 1

Existing section 1 of Part I of Schedule V defines the term "improvement" in relation to real property. The section is repealed because the definition "improvement" in subsection 123(1) of the Act, which currently relates only to capital property, is amended to apply to property generally (see commentary on the definition "improvement" under clause 1).

This amendment is effective on THE DAY AFTER ANNOUNCEMENT DATE.

Clause 86

Exempt Residential Leases or Licences

ETA
Schedule V, Part I, section 6

Section 6 of Part I of Schedule V exempts long-term residential leases and supplies of residential accommodation by way of lease or licence where the consideration does not exceed $20 per day. In order for a long-term lease of a residential complex or unit to be exempt, it must be occupied by the same individual for a period of at least one month. The amendment to paragraph 6(a) clarifies that the test is based on a period of continuous occupation.

This clarification is consistent with similar wording changes made to the definitions "residential complex" and "residential trailer park" in subsection 123(1) and "long-term lease" in subsection 254.1(1) as well as to sections 7 and 8.1 of Part I of Schedule V and subparagraph 25(*f*)(i) of Part VI of that Schedule.

For consistency, these wording changes are all effective on, or in relation to supplies made on or after, September 15, 1992, the date as of which subparagraph 25(*f*)(i) was last amended. However, these amendments do not apply for the purposes of determining any amount claimed in a return under Division V, or in an application under Division VI, that was received at a Revenue Canada office before ANNOUNCEMENT DATE.

Clause 87

Lease of Real Property Where Exempt Re-Supply

ETA
Schedule V, Part I, paragraph 6.1(*b*)

Existing section 6.1 of Part I of Schedule V exempts leases of land or buildings to a person who, in turn, leases the property on an exempt basis. Subsection 148(1) of chapter 27, S.C. 1993 amended this

section, effective January 1, 1993, to clarify the application of the section where the final lessee changes the use of the property during the lease interval. At the same time, the reference in paragraph (*b*) of the section to a building or part of a building consisting solely of residential units was replaced by a reference to "all or part of a building that forms part of a residential complex". This had the unintended effect of denying the exemption previously available for the lease of certain buildings, such as establishments used to provide short-term accommodation that is exempt under paragraph 6(*b*) of Part I of Schedule V (i.e., where consideration is $20 or less per day). Such a building, although consisting of residential units, is not a residential complex within the meaning of subsection 123(1) when it is being used as a hotel, motel or similar premises.

To correct this oversight, paragraph 6.1(*b*) is amended to continue to apply to the supply of a building or part of a building where the building or part, as the case may be, consists solely of residential units. As a result, the lease of such premises is exempt for any lease interval throughout which the re-supplies of residential units therein are exempt under paragraph 6(*b*).

This amendment is effective January 1, 1993, the effective date of the previous amendment to section 6.1.

Clause 88

Exempt Leases of Land or Trailer Park Sites

ETA
Schedule V, Part I, section 7

Section 7 of Part I of Schedule V exempts certain supplies by way of lease, licence or similar arrangement of land and residential trailer park sites for a period of least one month. The section is amended to clarify that the test is based on a period of continuous possession or use the land or site.

This clarification is consistent with similar wording changes made to the definitions "residential complex" and "residential trailer park" in

subsection 123(1) and "long-term lease" in subsection 254.1(1) as well as to sections 6 and 8.1 of Part I of Schedule V and subparagraph 25(*f*)(i) of Part VI of that Schedule.

For consistency, these wording changes are all effective on, or in relation to supplies made on or after, September 15, 1992, the date as of which subparagraph 25(*f*)(i) was last amended. However, these amendments do not apply for the purposes of determining any amount claimed in a return under Division V, or in an application under Division VI, that was received at a Revenue Canada office before ANNOUNCEMENT DATE.

Clause 89

Parking Spaces

ETA
Schedule V, Part I, section 8.1

Section 8.1 of Part I of Schedule V exempts certain supplies of residential parking for a period of at least one month. The section is amended to clarify that the test is based on the period "throughout" which the parking space is made available.

This clarification is consistent with similar wording changes made to the definitions "residential complex" and "residential trailer park" in subsection 123(1) and "long-term lease" in subsection 254.1(1) as well as to sections 6 and 7 of Part I of Schedule V and subparagraph 25(*f*)(i) of Part VI of that Schedule.

For consistency, these wording changes are all effective on, or in relation to supplies made on or after, September 15, 1992, the date as of which subparagraph 25(*f*)(i) was last amended. However, these amendments do not apply for the purposes of determining any amount claimed in a return under Division V, or in an application under Division VI, that was received at a Revenue Canada office before ANNOUNCEMENT DATE.

Clause 90

Personal Trust

ETA
Schedule V, Part I, section 9

Existing section 9 of Part I of Schedule V exempts the sale of real property by an individual or a trust – all the beneficiaries of which are individuals and all the contingent beneficiaries of which are individuals or charities – with certain exceptions. Section 9 is amended as a consequence of the addition of the definition "personal trust" in subsection 123(1) (see commentary on clause 1). Amended section 9 applies to sales by individuals and personal trusts.

A substantive effect of this change relates to testamentary trusts. Under the new definition "personal trust", the restrictions regarding the beneficiaries of a trust, which are found in existing section 9, do not apply to testamentary trusts. This change is effective January 1, 1991 but does not apply to sales for which an amount was charged or collected on account of tax on or before ANNOUNCEMENT DATE.

It should also be noted that the combined effect of these amendments and amendments to section 267 (see commentary on clause 73) is that sales of real property by a deceased individual's estate will be treated in the same manner under section 9 as if the sale had been made before the individual died. This change is also effective January 1, 1991 but does not apply to sales for which an amount was charged or collected on account of tax on or before ANNOUNCEMENT DATE.

The use of the term "personal trust" in section 9 also affects the treatment of *inter vivos* trusts. A personal trust excludes such a trust where any beneficial interest in the trust is sold by the trust or by persons who contributed property to the trust. In this circumstance, the trust would not be able to avail itself of the exemption under section 9. This change applies to sales made after ANNOUNCEMENT DATE. (See under subclause 1(15) the coming-into-force provision for the definition "personal trust" in subsection 123(1)).

Under existing section 9, the exemption is not available for capital real property used primarily in a business. Amended paragraph 9(2)(*a*) restricts the exception from exemption to cases where the business is carried on with a reasonable expectation of profit.

Finally, another exception is added to the exemption under section 9. The exception in new paragraph 9(2)(*c*) provides that the supply of a part of a parcel of land by a person who is an individual, a trust, or the settlor of a trust will not be exempt where the parcel was severed or subdivided by the person. New subsection 9(1) provides that, for the purposes of these rules, the settlor of a testamentary trust is the deceased individual whose death gave rise to the trust.

There are two exceptions to this rule. Where the parcel of land was subdivided or severed into only two parts, and the person did not previously subdivide or sever it from another parcel of land, new paragraph (*c*) does not apply. This paragraph also does not apply in the case of a subdivision or severance where the recipient is related to or is a former spouse of the individual supplier or settlor, and the land is being acquired for the personal use and enjoyment of the recipient. Further, for purposes of determining whether land has been subdivided or severed, where the individual, trust or settlor supplies a part of a parcel of land to a person who has the right to acquire the land by expropriation, such as a municipality or utility commission, that part and the remainder of the parcel will not be considered to have been subdivided or severed from each other by the individual, trust or settlor.

New paragraph 9(2)(*c*) applies to supplies made after ANNOUNCEMENT DATE.

Clause 91

Coin-Operated Washing Machines and Clothes-Dryers

ETA
Schedule V, Part I, section 13.3

New section 13.3 exempts the supply of a right to use a washing machine or clothes-dryer located in a common area of a residential complex.

It should be noted that the change-of-use rules under subdivision d of Division II of Part IX apply where capital personal property, such as the coin-operated machines, used primarily in commercial activities begin to be used primarily in exempt activities as a result of the amendment. (Reference should also be made to section 198.1.)

This amendment applies to supplies made after ANNOUNCEMENT DATE. As a result of the application of section 160, this means that the exemption applies in respect of consideration removed from the machines after that day.

Clause 92

Definitions Relating to Health Services Exemptions

ETA
Schedule V, Part II, section 1

Subclause 92(1)

Definition "health care facility"

The definition "health care facility" in section 1 of Part II of Schedule V is amended to replace the expression "the mentally disordered" with the more generally accepted expression "individuals with a mental health disability".

The amendment applies on Royal Assent.

Subclause 92(2)

Definition "practitioner"

The definition "practitioner", in section 1 of Part II of Schedule V identifies the types of persons who are not required to charge GST on their supplies of services itemized in section 7 and new section 7.1 of this Part (see commentary on clauses 94 and 95).

The amendment adds dieticians to this list of practitioners. The amendment results from criteria established to determine which services supplied by health care practitioners will continue to be exempt of GST under section 7 when rendered to an individual and whether there are additional services that would qualify. First, if the service is covered by a health insurance plan in a given province, it is exempt in that province. Second, if a service is covered by a plan in two or more provinces, it is intended that it be exempt in all provinces. Finally, if a service is not covered by a provincial health insurance plan, but is rendered in the practise of a profession that is regulated as a health care profession in five or more provinces, it is intended to be exempt in all provinces. Services that do not meet these criteria are intended to be taxable.

The amendment adding dieticians to the list of practitioners applies as of January 1, 1997.

Existing section 7 includes services that are currently exempt but do not meet the above criteria, namely osteopathic and speech therapy services. These services will remain on the list of exempt services until the end of 1997. If, at that time, they meet these criteria for exemption, an amendment will be introduced to allow these services to remain exempt.

Clause 93

Air Ambulance Services

ETA
Schedule V, Part II, section 4

Amended section 4 of Part II of Schedule V exempts ambulance services but excludes international air ambulance services, which are zero-rated under new section 15 of Part VII of Schedule VI (see commentary on clause 149).

It should be noted that if, as a result of the retroactive zero-rating of international air ambulance services, an ambulance operator would, as of a particular time, be considered to have been using capital property primarily in making taxable or zero-rated supplies, the operator may be entitled to claim input tax credits that were previously denied because of the existing exemption for all ambulance services.

The amendment is deemed to have come into force on January 1, 1991.

Clause 94

Exempt Health Care Services

ETA
Schedule V, Part II, section 7

Section 7 of Part II of Schedule V is amended to remove osteopathic and speech therapy services from the list of exempt health care services for supplies made after 1997. As noted in the commentary on the amendments to section 1 of this Part, these services do not meet the criteria for exemption described therein. If, at the end of 1997, these services do meet those criteria, an amendment will be introduced to allow them to continue to be exempt.

Clause 95

Dietetic Services

ETA
Schedule V, Part II, Section 7.1

New section 7.1 of Part II of Schedule V adds dietetic services to the list of exempt health care services since these services satisfy the policy criteria enumerated above (see the commentary on clause 92 relating to the change to the definition "practitioner" in section 1 of this Part). The services are exempt when rendered to an individual (regardless of who the recipient of the supplies is) and when the recipient of the supply is a public sector body or operator of a health care facility within the meaning of section 1 of this Part.

It should be noted that the change-of-use rules under subdivision d of Division II may apply. For example, if capital personal property of a dietician that is used primarily in making taxable supplies begins to be used primarily in making exempt supplies as a result of the amendment, the change-of-use rules may apply. (Reference should also be made to section 198.1 of the Act.)

The amendment applies to supplies of dietetic services made after 1996.

Clause 96

Psychoanalytic Services

ETA
Schedule V, Part II, section 12

Existing section 12 exempts supplies of psychoanalytic services where the supplier has received the same training in the provision of such services as do medical doctors and is a member in good standing of a professional society that sets and maintains standards of practise for all members in respect of psychoanalytic services in Canada.

The commentary on the amendment to section 1 of this Part outlines the criteria established for determining which services provided by health care practitioners will be exempt of GST. Although the services of psychoanalysts do not currently meet those criteria, they will remain exempt until the end of 1997. If, at that time, the services of psychoanalysts meet the criteria, an amendment will be introduced to allow their services to remain exempt.

It should be noted that the change-of-use rules under section 199 will apply if the capital property of psychoanalysts that is used primarily in exempt activities begins to be used after 1997 primarily in making taxable supplies as a result of the amendment.

Clause 97

Definition "vocational school"

ETA
Schedule V, Part III, section 1

The definition "vocational school" in section 1 of Part III of Schedule V is relevant for purposes of the exemptions for educational services under sections 6 and 8 of this Part, and for purposes of paragraph 2(*l*) of Part VI of Schedule V. The definition is amended to remove the reference to institutions certified for the purposes of subsection 118.5(1) of the *Income Tax Act*. Accordingly, all institutions will have to satisfy the criterion of being established and operated *primarily* to provide courses that develop or enhance students' occupational skills in order to qualify as a vocational school under this Part. A number of organizations that were certified for the purposes of subsection 118.5(1) were not established primarily for that purpose. These organizations will no longer qualify as vocational schools for GST purposes.

It should be noted that the change-of-use rules under section 199 will apply if the capital property of an educational institution used primarily in exempt activities begins to be used primarily in making taxable supplies as a result of the amendment.

The amendment applies in relation to supplies made after 1996.

Clause 98

Supplies Through Vending Machines

ETA
Schedule V, Part III, section 3

Existing section 3 of Part III of Schedule V exempts supplies of food, beverages, services or admissions that are supplied by a school authority primarily to elementary or secondary school students as part of an extra-curricular activity organized by the school. This includes, for example, charges by a school to students for a school-organized visit to a museum or theatre. The exemption under this section does not extend to sales of goods other than food and beverages. For example, sales to students of school rings or sweaters by a school authority that is registered for GST purposes are subject to tax in the normal manner.

Amended section 3 provides that the exemption does not extend to food or beverages that are supplied through vending machines or that may be prescribed under section 12 of this Part.

The amendment applies to supplies made after ANNOUNCEMENT DATE.

Clause 99

Exempt Courses

ETA
Schedule V, Part III, paragraph 8(*c*)

Section 8 of Part III of Schedule V provides an exemption for certain courses leading to certificates, diplomas or licences. One of the criteria for exemption in certain circumstances is that the supplier is a non-profit organization or a charity.

Paragraph 8(*c*) is amended as a consequence of the addition of new Part V.1 to the Schedule. The paragraph is amended to replace the reference to "charity" with a reference to "public institution", which is newly defined in subsection 123(1) (see commentary on the definition "public institution" under clause 1). Public institutions are defined as those universities, public colleges, school authorities, hospital authorities and local authorities designated as municipalities for all purposes of the GST that are registered charities within the meaning of the *Income Tax Act*.

These types of courses, when supplied by charities, will continue to be exempt under section 1 of new Part V.1 of Schedule V (see the commentary on clause 102.)

This amendment applies to supplies made after 1996.

Clause 100

Meal Plans

ETA
Schedule V, Part III, section 13

Amended section 13 of Part III of Schedule V clarifies the exemption for meal plans offered by universities and public colleges. Under this provision, a meal plan that is sold to students is exempt if the amount paid for the plan is sufficient to provide a student with at least 10 meals per week for the period of the plan, which must not be less than one month. The cost per meal must be based on the average cost of a meal at the educational institution. The amendment ensures that meal plans that are sold to students in the form of a decreasing balance debit card or meal vouchers are eligible for the exemption.

It should be noted that this exemption does not depend on whether the student purchasing the meal plan lives on- or off- campus. Hence, university students living off-campus and purchasing meal plans are provided the same treatment as students living in university or college residences. However, the meal plan must be for use by university or public college students at a campus cafeteria or

restaurant. A qualifying meal plan would not cover purchases at an on-campus mini-mart or convenience store.

The amendment applies to plans for which all of the consideration becomes due or is paid without having become due after June 1996.

Clause 101

Child and Personal Care Services

ETA
Schedule V, Part IV, section 2

Section 2 of Part IV of Schedule V is amended to replace the expression "disabled individuals" with the more generally accepted expression "individuals with a disability".

The amendment is effective on Royal Assent.

Clause 102

Supplies by Charities

ETA
Schedule V, Part V.1

Existing Part VI of Schedule V to the Act sets out exempt supplies by public sector bodies including charities, non-profit organizations, municipalities, universities and public colleges, school authorities, hospital authorities and governments. For purposes of these rules, charities are defined as registered charities or registered Canadian amateur athletic associations within the meaning of the *Income Tax Act*.

Existing section 2 of Part VI exempts all supplies of personal property and services by charities except for certain exceptions set out therein. Charities are currently required to look to other provisions in Part VI of Schedule V, which apply to public sector bodies in

general, to determine whether supplies excluded from section 2 are nevertheless exempt under another provision.

To simplify the rules for charities, a separate set of rules is set out for those public colleges, universities, school authorities, hospital authorities and local authorities designated as municipalities for all purposes of Part IX that are registered charities under the *Income Tax Act*. These organizations are newly defined as "public institutions" in subsection 123(1) and are excluded from the definition "charity". In addition, existing Part VI of Schedule V is amended to no longer apply to "charities" as newly defined. Rather, new Part V.1 of Schedule V provides for a comprehensive list of exemptions applying only to charities. Each section of new Part V.1 is described below in further detail.

With certain exceptions noted below, the provisions of new Part V.1 apply to supplies for which consideration becomes due or is paid without having become due after 1996.

Section 1 General Exemption

As is the case with existing section 2 of Part VI of Schedule V, section 1 of new Part V.I exempts all supplies made by a charity of personal property or services except those listed in the paragraphs under the section. Section 1 of new Part V.I also exempts supplies of real property by a charity which are currently exempt under section 25 of Part VI of the Schedule. In addition, some changes are made to the list of exemptions. The following supplies by charities, which are currently on the list of taxable supplies, will become exempt:

- catering services (existing paragraph 2(*g*) of Part VI of Schedule V);

- leases or licenses of real property for less than a month, and any goods leased with that property (existing paragraphs 2(*f*) and 25(*f*) of Part VI of Schedule V); and

- parking (existing paragraph 25(*h*) of Part VI of Schedule V).

It should be noted that the above supplies will continue to be excluded from the general exemption when made by public institutions (see Part VI of Schedule V).

In addition, the "direct cost" exemptions set out in existing sections 6 to 8 of Part VI of Schedule V are, in the case of charities, replaced with the exemption under section 1 of new Part V.1. In addition, the overriding volunteer exemption under existing section 3 of Part VI of Schedule V is repealed, and a new fund-raising rule is added for charities. These exemptions are described below.

The following supplies are excluded from the general exemption for charities:

- a zero-rated supply. New paragraph 1(*a*) replicates existing paragraph 2(*a*) of Part VI of Schedule V.

- deemed supplies (i.e., any supply deemed under the legislation to have been made by the charity). New paragraph 1(*b*) parallels existing paragraph 2(*b*) of Part VI of Schedule V. However, this exclusion also ensures that, where a charity is deemed to have made a supply under section 187 (i.e., the taking of bets on games of chance), it will not be a taxable supply. This is not a new exemption as it is provided for in existing section 5.2 of Part VI of Schedule V.

- capital and non-capital personal property used in a commercial activity immediately prior to the supply. New paragraph 1(*c*) parallels existing paragraphs 2(*c*) and (*d*) of Part VI of Schedule V.

- new goods acquired, manufactured or produced for resale purposes, provided the usual charge for these supplies is at least equal to their direct cost. Under the existing legislation, supplies by charities of new goods are generally taxable (paragraph 2(*e*) of Part VI of Schedule V) subject to the overriding exemptions including the nominal consideration exemption under section 6 of that Part. New paragraph 1(*d*) of Part V.1 preserves this treatment and incorporates the direct cost rule (see commentary under clause 1 on the new definition

"direct cost" in subsection 123(1)). However, the rule is modified in that supplies made for consideration "equal to" direct cost are exempt under the existing provision whereas the supplies would have to be made for "less than" direct cost to be exempt under new Part V.1.

- a service in respect of property that is carved out of the general exemption because of paragraph 1(*d*). Supplies of services in respect of supplies included in paragraph 1(*d*) are also excluded from the exemption. New paragraph 1(*e*) parallels the rule in existing paragraph 2(*e*) of Part VI of Schedule V.

- admissions to a place of amusement where the maximum admission price exceeds one dollar.

  That part of an admission charge that is not considered a charitable donation is generally subject to GST pursuant to existing paragraph 2(*m*) of Part VI of Schedule V where the admission is to a place of amusement or a fund-raising event. Nonetheless, this is currently subject to certain overriding exemptions under other provisions such as the volunteer exemption or the exemption for supplies of admissions made for one dollar or less.

  Similarly, paragraph 1(*f*) of new Part V.1 carves admissions exceeding one dollar out of the general exemption. However, admissions may be exempt under new section 2 or 3 of this Part in certain circumstances (see commentary on those sections below).

- services or memberships entitling a person to supervision or instruction in recreational or athletic activities except where:

  · they are provided primarily to children 14 years of age or less, and overnight supervision is not provided throughout a substantial portion of the program; or

  · they are intended to be provided primarily to underprivileged individuals or individuals with a disability.

Paragraph 1(*g*) parallels the treatment provided under existing paragraph 2(*j*) and section 12 of Part VI of Schedule V. For example, recreational classes for adults and any overnight camps continue to be taxable while day camps for children continue to be exempt where supplied by a charity. However, the provision is simplified for charities by removing the criterion that the services be part of a program consisting of a series of classes or activities.

- memberships in charities that entitle members to otherwise taxable admissions for no extra charge or that provide significant discounts to members.

  Paragraph 1(*h*) of new Part V.I parallels the exclusion from exemption set out in existing paragraph 2(*h*) of Part VI of Schedule V, while retaining the existing exemption for certain memberships provided primarily to children, underprivileged individuals or individuals with a disability.

  For example, tax would apply to a supply by a charity of a membership in a recreational club that supplies otherwise taxable admissions to members for no extra charge or at a significant discount.

- the professional services of performing artists. These services are taxable when provided under a contract with another organization that is staging a professional performance, for example, where a symphony orchestra supplies its services to an opera company. In effect, this is a relieving provision as it allows the supplier to claim input tax credits in respect of the supply, recognizing that the purchaser (i.e., the opera company) can likewise claim input tax credits on its purchase.

  Paragraph 1(*i*) of new Part V.I parallels existing paragraph 2(*i*) of Part VI of Schedule V.

- sales of tickets or other rights to participate in a game of chance conducted by a prescribed lottery corporation.

Paragraph 1(*j*) of new Part V.1 parallels the treatment of supplies of rights to participate in games of chance as provided under existing paragraph 2(*k*) and section 5.1 of Part VI of Schedule V.

- sales of residential complexes. Paragraph 1(*k*) of new Part V.1 continues to carve sales of residential complexes out of the general exemption for supplies by charities. Charities must continue to look to Part I of Schedule V to determine exemptions for sales of residential complexes.

- vacant land sold to an individual or a personal trust (i.e., land on which there is no structure that was used by the body in either taxable or exempt activities).

  Paragraph 1(*l*) of new Part V.1 maintains the taxable status of vacant land sold by a charity as provided under existing paragraph 25(*c*) of Part VI of Schedule V. However, the provision is amended to replace the description of trusts in that paragraph with a reference to "personal trust", which is newly defined in subsection 123(1) (see commentary on the definition of that term under clause 1).

  Personal trusts include the type of trust referred to in existing paragraph 25(*c*). The term is somewhat broader, however. Existing paragraph 25(*c*) applies to trusts whose beneficiaries are individuals or, in the case of contingent beneficiaries, charities. The amended provision retains that condition only for *inter vivos* trusts. It applies to all testamentary trusts regardless of who the beneficiaries are. Therefore, a sale of vacant land by a charity to a testamentary trust will not be exempt under this provision.

- real property for which the charity has claimed or is entitled to claim an input tax credit (i.e., where the property was used primarily in a commercial activity).

  Paragraph 1(*m*) of new Part V.1 maintains the taxable status of such supplies of real property by charities as provided under existing paragraph 25(*d*) of Part VI of Schedule V.

- a supply of real property for which the charity has filed an election under section 211 of the Act.

  Paragraph 1(*n*) of new Part V.1 maintains the exclusion from exemption for supplies of such real property by charities as provided under existing paragraph 25(*g*) of Part VI of Schedule V.

Section 2 Admissions

Existing section 164 provides that, where a charity makes a supply of an admission to a dinner, ball, concert or similar fund-raising event, no tax applies on the portion of the admission price that can be considered a gift or contribution. In these cases, the term "charity" refers to a registered charity or registered Canadian amateur athletic association within the meaning of the *Income Tax Act*.

Section 2 of new Part V.1 exempts the total admission charged by a charity in such cases. For example, where a person pays $100 for a fund-raising dinner sponsored by a charity and the charity is entitled to issue a $50 charitable donation receipt for income tax purposes in respect of the admission price, no part of the $100 admission will be subject to GST.

Similar exemptions are introduced for public institutions (as newly defined in subsection 123(1)) and registered political parties, including candidates and referendum committees (see commentary on clauses 105 and 113 respectively).

This amendment applies to supplies for which consideration becomes due, or is paid without having become due, after 1996. Nonetheless, the existing rules will apply to admissions to any event for which any admissions have been sold before 1997. This will ensure that the same treatment applies to all admissions to a particular event.

Section 3 Fund-Raising Activities

Given that the small supplier thresholds for charities are increased significantly under the amendments to sections 148 and 148.1 (see commentary on clauses 9 and 10), many more charities than currently

is the case will not be required to be registered to collect GST. As a result, fewer fund-raising activities will fall within the scope of the tax.

Section 3 of new Part V.1 is provided for those charities that are large enough to remain registered for the tax. It exempts most supplies made by such charities in the course of fund-raising activities that are not otherwise exempt under section 2 of that Part. Such supplies are exempt under section 3 where they are not made on a regular or continuous basis throughout the year or a significant portion of the year and do not entitle recipients to receive property or services from the charity throughout the year or a significant portion of the year. Also, the existing exclusions from the volunteer exemption will apply to this new exemption provision.

This exemption is intended to parallel the approach toward exemptions for fund-raising activities that is taken by many provinces for purposes of their sales taxes. For instance, where a charity operates a retail business year round or supplies admissions to performances held throughout its theatre season from May to October, the supplies will be taxable. However, if, for example, a charity had two fund-raising drives per year during which it sold chocolate bars, the supplies would be exempt.

A similar exemption is introduced for public institutions (see commentary on clause 105).

Section 4 Meal Programs

Section 4 of new Part V.1 exempts the supply of prepared meals by charities under programs, such as Meals on Wheels, that are designed to provide seniors, persons with disabilities or underprivileged persons with prepared food in their homes. The provision also exempts the sale of prepared meals to the charity for the purpose of carrying out the program.

This provision parallels existing section 15 of Part VI of Schedule V, which continues to exempt similar supplies by other public sector bodies.

Section 5 Supplies for No Consideration

Existing section 10 of Part VI of Schedule V provides an overriding exemption for supplies of property or services ordinarily supplied free of charge by a public sector body, including a charity. Such supplies are not considered to be made in the course of a commercial activity.

Section 5 of new Part V.1 maintains this exemption for charities, with the exception that the supply of blood or blood derivatives will be zero-rated under Part I of Schedule VI, even where supplied free of charge.

This amendment is consistent with the amendment to section 10 of Part VI of Schedule V (see commentary on clause 109). That section is amended, as of January 1, 1991, for supplies by charities and other public sector bodies. After 1996, however, it will apply only to the other public sector bodies, and section 5 of new Part V.1 will apply to charities.

Section 6 Admissions to Gambling Events

Section 6 of new Part V.I replicates the existing exemption for admissions to gambling events under section 5 of Part VI of Schedule V.

Clause 103

Definitions

ETA
Schedule V, Part VI, section 1

Section 1 of Part VI of Schedule V sets out definitions of terms used throughout the Part.

Subclause 103(1)

Definition "direct cost"

The definition "direct cost" in section 1 of Part VI of Schedule V is repealed and replaced by a new definition of the term in subsection 123(1) (see commentary on the definition of that term under clause 1). The new definition will therefore apply for purposes of amended section 6 of Part VI of Schedule V as well as paragraph 1(*d*) of new Part V.I of that Schedule (see commentary on clauses 108 and 102 respectively).

This amendment is effective on January 1, 1997.

Subclause 103(2)

Definition "transit authority"

The definition "transit authority" in section 1 of Part VI of Schedule V is amended to replace the expression "the mentally disordered" with the more generally accepted expression "individuals with a disability".

The amendment is effective on Royal Assent.

Subclause 103(3)

Definitions "public sector body", "public service body" and "registered party"

Definition "public sector body"

Section 1 of Part VI of Schedule V is amended by adding a definition of "public sector body" for purposes of Part VI. The new definition provides that, for purposes of Part VI only, the term "public sector body" will not include a reference to a charity as newly defined in subsection 123(1). The reason for this is that the exemptions for supplies by charities are set out separately in new Part V.1 of the Schedule (see commentary on clause 102). The expression "public sector body" will continue to refer to non-profit organizations,

municipalities and governments. It will also include universities, public colleges, school authorities and hospital authorities – including those that are public institutions as newly defined in subsection 123(1). Charities will continue to be public sector bodies for purposes of the rest of Part IX of the Act.

This definition comes into force on January 1, 1997 and also applies in relation to supplies made before that day for which consideration becomes due, or is paid without having become due, on or after that day.

Definition "public service body"

Section 1 of Part VI of Schedule V is also amended by adding a definition of "public service body" for purposes of Part VI. For purposes of Part VI only, the expression "public service body" will not include a reference to a charity as newly defined in subsection 123(1). The reason for this is that the exemptions for supplies by charities are set out separately in new Part V.1 of the Schedule (see commentary on clause 102). The term "public service body" will continue to include non-profit organizations, municipalities, universities and public colleges, school authorities and hospital authorities – including those that are public institutions as newly defined in subsection 123(1). Charities will continue to be public service bodies for purposes of the rest of Part IX of the Act.

This definition comes into force on January 1, 1997 and also applies to supplies made before that day for which consideration becomes due, or is paid without having become due, on or after that day.

Definition "registered party"

Section 1 of Part VI of Schedule V is amended to add a definition of "registered party". This expression will have the same meaning in Part VI as under existing section 164. That section deals with fund-raising events and other activities in respect of which a registered party receives political contributions or donations. That section is repealed (see commentary on clause 16), and the new rules for the treatment of supplies in respect of which donations are given to political parties, including referendum committees and candidates,

are found in section 18 of Part VI of Schedule V (see commentary on clause 113).

The term "registered party" is also relevant for the purposes of the exemption for memberships supplied by these entities found in amended section 17 of Part VI (see commentary on clause 113).

This definition comes into force on ANNOUNCEMENT DATE but also applies in relation to supplies made before that day for which consideration becomes due, or is paid without having become due, on or after that day.

Clause 104

General Exemptions for Public Institutions

ETA
Schedule V, Part VI, section 2

Section 2 of Part VI of Schedule V is amended to replace references to "charity" with references to "pubic institution". This is consequential to the addition of new Part V.I of the Schedule, which sets out exemptions for supplies by charities separately from the exemptions under Part VI for "public institutions". The term "charity" is redefined in subsection 123(1) to exclude a "public institution", which is newly defined in that subsection to refer to a person that is a registered charity, within the meaning of the *Income Tax Act*, and that is a school authority, hospital authority, university, public college or person determined to be a municipality for purposes of Part IX.

These amendments apply to supplies for which consideration becomes due after 1996 or is paid after 1996 without having become due.

Clause 105

Overriding Volunteer Exemptions

ETA
Schedule V, Part VI, sections 3 and 3.1

Existing section 2 of Part VI of Schedule V sets out the general rule that supplies by charities of personal property or services are exempt unless specifically excluded from the exemption. As noted in the commentary on clause 104 above, after 1996, section 2 of Part VI of Schedule V will apply only to persons newly defined to be "public institutions" under subsection 123(1) since new Part V.I sets out exemptions for charities separately.

Existing section 3 of Part VI contains an overriding exemption, which provides that those supplies that are otherwise carved out of the exemption under section 2 are nevertheless exempt under section 3 if, generally, the day-to-day administrative and other functions involved in carrying out the activity in which the supplies are made are performed exclusively – generally taken to mean 90 per cent or more – by volunteers.

The volunteer exemption has proven difficult to apply. To simplify the rules, the overriding volunteer rule is repealed, other exemptions are amended and added (as detailed in the commentary on new section 3.1 of Part VI of the Schedule) and the small suppliers' thresholds for public service bodies are increased (see commentary on clauses 9 and 10). These changes are made with the objective of preserving the non-taxable status of most supplies that currently fall under the volunteer rule but based on alternative tests that are easier to apply. It should be noted, however, that there may be cases where supplies formerly exempt under the volunteer rule will become taxable. For example, if a charity or public institution that exceeds the small supplier's threshold operates a gift shop using only volunteers, its sales of new goods made at the shop will become taxable.

New section 3 of Part VI of Schedule V exempts all admissions by public institutions to a dinner, ball, concert or similar fund-raising

event where a portion of the admission price can be treated as a charitable donation for income tax purposes. The amendment to section 3 is consistent with the fund-raising rule applicable to charities in new section 2 of Part V.I of Schedule V (see commentary on clause 102).

New section 3.1 exempts most supplies by public institutions that are made in the course of fund-raising activities where such supplies are not made on a regular or continuous basis throughout the year or a significant portion of the year and do not entitle the recipients to receive property or services from the institution throughout the year or a significant portion of the year. Also, the exclusions that apply to the existing volunteer exemption will apply to this new exemption provision. This provision is consistent with the new fund-raising rule for charities in section 3 of new Part V.1 of the Schedule (see commentary on clause 102).

Existing section 3 is repealed and replaced in respect of supplies for which consideration becomes due, or is paid without having become due, after 1996 except that new section 3 does not apply to supplies of admissions to events for which admissions have been supplied before 1997. In that case, the existing rules continue to apply so that all admissions to a particular event will receive the same treatment.

Clause 106

Bingos, Raffles, etc.

ETA
Schedule V, Part VI, section 5.1

Existing section 5.1 of Part VI of Schedule V exempts the gambling proceeds to a charity or non-profit organization that conducts a bingo, raffle or casino betting, or otherwise sells rights to play or participate in a game of chance. The exemption does not apply to sales of rights by any non-profit organization that is prescribed in the *Games of Chance (GST) Regulations*, nor does it apply to any sale by a charity or non-profit organization of rights to play or participate in lotteries or other games of chance conducted by prescribed persons.

Section 5.1 is amended to replace the reference to "charity" with a reference to a "public institution", which is a person that is a local authority designated as a municipality for all purposes of Part IX, university, public college, hospital authority or school authority and that is a registered charity for purposes of the *Income Tax Act* (see commentary on the definition "public institution" under clause 1). This amendment is consequential to the addition of new Part V.1 to Schedule V, which sets out the exemptions for supplies by charities. The exemption for gambling activities continues to apply to charities but under section 1 of new Part V.1, with the same exclusion for prescribed persons and games of chance in paragraph 1(*j*) of that Part (see the commentary on clause 102).

This amendment applies to supplies for which consideration becomes due, or is paid without having become due, after 1996.

Clause 107

Bets on Casino Games, Races, Etc.

ETA
Schedule V, Part VI, paragraph 5.2(*a*)

Existing section 5.2 of Part VI of Schedule V exempts the gambling proceeds to a charity or non-profit organization, other than a prescribed lottery corporation, that conducts a casino event. All pari-mutuel betting on horse races is also exempt under this section. Nonetheless, admissions to casinos or racetracks are taxable.

Paragraph 5.2(*a*) is amended to replace the reference to a "charity" with a reference to a "public institution", which is newly defined in subsection 123(1) as a person that is a local authority designated as a municipality for all purposes of Part IX, university, public college, hospital authority or school authority and that is a registered charity within the meaning of the *Income Tax Act* (see commentary on the definition "public institution" under clause 1). This amendment to section 5.2 is consequential to the addition of new Part V.1 to Schedule V, which sets out the exemptions for supplies by charities. The exemption for gambling activities continues to apply to charities

but under section 1 of that Part, with the same exclusion for prescribed persons under new paragraph 1(*j*).

This amendment applies to supplies for which consideration becomes due, or is paid without having become due, after 1996.

Clause 108

Direct Cost Exemption for Public Service Bodies

ETA
Schedule V, Part VI, sections 6 to 8

Existing section 6 of Part VI of Schedule V exempts certain supplies by public service bodies made for consideration that does not exceed the direct cost of the supplies. Under the existing legislation, "direct cost " is defined in section 1 of that Part. An amendment is made to move this definition to subsection 123(1) so that it also applies to new Part V.1, which sets out the exemptions for supplies by "charities" as newly defined in subsection 123(1) (see commentary on that definition under clause 1). Accordingly, section 6 will apply only to public service bodies other than those defined to be charities. The section is amended to provide that supplies by such entities will be exempt only if they are usually made for "less than" direct cost. This differs from the existing section, which also exempts supplies made for consideration "equal to" direct cost.

Existing section 7 of Part VI exempts services supplied by public service bodies for direct cost or less in the course of special events or activities that are not part of an ongoing business. Section 7 is repealed as a consequence of the revised definition "direct cost" (see commentary on that definition under clause 1). This definition applies, in the case of services, only where they are purchased for resale for less than the purchase price. The existing provision contemplates an exemption for services produced by the public service body. However, this exemption has proven difficult to apply and, as a result, simpler, more straightforward rules, such as the fund-raising rule set out in section 3 of Part VI, are introduced (see commentary on clause 105).

Existing section 8 of Part VI provides an exemption for admissions to a film, slide show or similar presentation supplied by a public service body where the total revenue for all admissions to the presentation could not reasonably be expected to exceed the "direct cost" of the presentation. In this context, the direct cost is essentially the total of all costs of renting the film and equipment used in putting on the presentation.

Section 8 is repealed as a consequence of the new definition "direct cost", which no longer applies to supplies of films, slide shows and similar presentations (see commentary on that definition under clause 1).

The amendments to section 6 and the repeal of existing sections 7 and 8 apply in respect of supplies for which all of the consideration becomes due, or is paid without having become due, after 1996.

Clause 109

Admissions Not Exceeding One Dollar and Supplies for Nil Consideration

ETA
Schedule V, Part VI, sections 9 and 10

Section 9 Admissions

Section 9 of Part VI of Schedule V exempts admissions supplied by a public sector body where the maximum charge does not exceed one dollar. The wording of this section is amended to be consistent with that of the parallel provision under paragraph 1(*f*) of new Part V.I of the Schedule applicable to charities.

This amendment applies to supplies made after ANNOUNCEMENT DATE.

Section 10 Nil Consideration

Section 10 of Part VI of Schedule V exempts supplies by a public sector body of property or services where all or substantially all of the body's supplies of the property or service are made free of charge. Such supplies are not considered to be made in the course of a commercial activity.

Section 10 is amended to exclude the supply of blood and blood derivatives from the exemption. This will ensure that such supplies will continue to be zero-rated under Part I of Schedule VI, even though they are supplied free of charge.

This amendment is effective as of January 1, 1991.

The French version of section 10 is also amended, for supplies made after ANNOUNCEMENT DATE, to replace the reference to "such" supplies with a more specific reference to "the" supplies, to be consistent with the wording of the English version.

It should be noted that, as a result of the amendment to the definition "public sector body" for purposes of Part VI of Schedule V, that Part does not apply to a "charity" (as newly defined in subsection 123(1)) as of January 1, 1997 (see commentary on clause 103). Instead, a similar provision for charities is found in section 5 of new Part V.1 of Schedule V.

Clause 110

Recreational Services

ETA
Schedule V, Part VI, paragraph 12(*b*)

Paragraph 12(*b*) of Part VI of Schedule V is amended to replace the expression "mentally or physically disabled individuals" with the more generally accepted expression "individuals with a disability".

The amendment is effective on Royal Assent.

Clause 111

Recreational Camps

ETA
Schedule V, Part VI, section 13

Section 13 of Part VI of Schedule V is amended to replace the expression "mentally or physically disabled individuals" with the more generally accepted expression "individuals with a disability".

The amendment is effective on Royal Assent.

Clause 112

Meal Programs

ETA
Schedule V, Part VI, section 15

Section 15 of Part VI of Schedule V is amended to replace the expression "disabled individuals" with the more generally accepted expression "individuals with a disability". In addition, the term "aged" is replaced with the term "seniors".

The amendment is effective on Royal Assent.

Clause 113

Memberships and Other Supplies by Registered Parties

ETA
Schedule V, Part VI, sections 17 and 18

Existing sections 17 and 18 of Part VI of Schedule V provide exemptions and elections for certain supplies of memberships by public sector bodies and professional associations respectively.

These exemptions and elections are repealed for public sector bodies, including charities, except for those supplied by a registered party, which includes political parties, candidates and referendum committees.

Memberships supplied by charities, which excludes "public institutions" as newly defined in subsection 123(1), continue to be exempt but under new Part V.I of Schedule V (see commentary on clause 102). Memberships in public institutions are exempt under amended section 2 of Part VI of Schedule V (see commentary on clause 104).

New section 18 of Part VI of Schedule V exempts any supply by a registered party where part of the consideration for the supply is a contribution to the registered party for which the recipient is entitled to claim a political contributions deduction or credit for income tax purposes. This broadens the existing relief provided under section 164, which provides that only that portion of the consideration that is a contribution is free of tax. New section 18 exempts the entire supply. Accordingly, no input tax credits will be available in respect of the inputs used in making the supply.

This provision is consistent with the revised treatment of supplies of admissions to dinners, balls, concerts and similar events by charities and public institutions (see the commentary on clauses 102 and 105 respectively).

The amendment to section 17 applies to supplies made after ANNOUNCEMENT DATE. New section 18 of Part VI of Schedule V applies to supplies made after 1996 except for supplies of admissions to events for which any admissions are supplied before 1997. The existing rules will apply to the latter supplies.

Clause 114

Supplies by Municipalities and Governments

ETA
Schedule V, Part VI, section 20

Subclause 114(1)

Zoning and Assessment Information

ETA
Schedule V, Part VI, Paragraph 20(*e*)

Existing paragraph 20(*e*) of Part VI of Schedule V describes information services and certain documents that are exempt when supplied by a government, municipality or a board, commission or other body established by a government or municipality.

The amendment to paragraph 20(*e*) adds to the list of exempt services the supply of information, or any certificate or other document, in respect of the zoning of real property or any assessment in respect of property.

It should be noted that the change-of-use rules may apply where the capital property of municipalities used primarily in taxable activities begins to be used primarily in exempt activities as a result of the amendment. (Reference should also be made to section 198.1 of the Act.)

The amendment applies to supplies for which all of the consideration becomes due after 1996 or is paid after 1996 without having become due.

Subclause 114(2)

Garbage Collection

ETA
Schedule V, Part VI, paragraph 20(*h*)

Existing paragraph 20(*h*) of Part VI of Schedule V exempts garbage collection services provided by a government, municipality or a board, commission or other body established by a government or municipality, other than collection services that are not part of the basic service that is supplied on a regularly scheduled basis by the government or municipality. Amended paragraph 20(*h*) extends the exemption to all garbage collection services provided by such entities. For example, a special collection of used electrical appliances, which was not part of a regularly scheduled service, would be exempt when provided by these entities.

It should be noted that the change-of-use rules for capital property may apply where, as a result of this amendment, capital property of a municipality used primarily in taxable activities begins to be used primarily in exempt activities. (Reference should also be made to section 198.1 of the Act.)

The amendment applies to services performed after 1996.

Amended paragraph 20(*h*) also clarifies, as of January 1, 1991, that the collection of garbage includes the collection of recyclable materials. This exemption applies to the collection of recyclables as part of a curbside or neighbourhood collection program as well as to the delivery of such recyclables by the municipality, government or other body to a recycling facility. The processing of recyclables at material recycling facilities is considered to be a commercial activity, and the sale of recyclables by a registrant is taxable.

Clause 115

Municipal Services

ETA
Schedule V, Part VI, sections 21 to 24

Section 21 General Exemption for Municipal Services

Section 21 of Part VI of Schedule V contains a general exemption for standard municipal services provided to property owners in a particular locale. This includes such services as road building and street lighting. In most municipalities, these services are financed from general revenues. In some cases, the municipality may identify the cost of the service separately to the resident. This provision is intended to ensure that such charges are not taxable. Optional services supplied to individual households on a fee-for-service basis are not covered under the exemption and are taxable unless they are exempt under another section of the Schedule.

Amended section 21 clarifies that municipal services performed by or on behalf of a municipality or government as a result of an owner's or occupant's failure to comply with an obligation imposed under a law are treated as a non-optional service and therefore exempt. For example, if a homeowner or occupant fails to control the growth of weeds on his or her property, thereby violating a municipal by-law, and if the municipality cuts the weeds as a result of the owner or occupant's failure to do so and charges for the service, the service is exempt.

The amendment applies to supplies for which any consideration becomes due or is paid without having become due after ANNOUNCEMENT DATE.

Section 21.1 Exempt Optional Services

New section 21.1 of Part VI of Schedule V exempts the supply of a number of services when made by a municipality or by a board, commission or other body established by a municipality. Services currently exempt under section 21 of this Part include road repair and

maintenance, snow removal and tree pruning where they are provided to property owners as a standard municipal service. However, section 21 does not exempt these services where they are supplied to individual households on a fee-for-service basis. New section 21.1 makes all supplies of these services exempt when provided by a municipality or by a body established by a municipality.

It should be noted that the change-of-use rules may apply where capital property used primarily in taxable activities begins to be used primarily in exempt activities as a result of the amendment (reference should also be made to section 198.1 of the Act.)

New section 21.1 applies to supplies for which any consideration becomes due or is paid without having become due after 1996.

Section 22 Water, Sewerage or Drainage Services

Section 22 of Part VI or Schedule V exempts the supply of a service of installing, repairing or maintaining a water distribution, sewerage or drainage system that is for the use of an owner or occupant of real property where the supply is made by a municipality or by an organization that operates such a system and is designated as a municipality by the Minister of National Revenue for the purposes of this section. Under the existing provision, where a separate fee is charged to a property owner or occupant to repair or maintain part of an existing system that is for the sole use of the owner or occupant, the supply is taxable.

Section 22 is amended to eliminate the exception and also to exempt the service of interrupting the operation of such a system. For example, where a municipality repairs that part of a water distribution system that is for the sole use of a homeowner, and the municipality bills the homeowner, the fee will not be subject to tax.

It should be noted that the change-of-use rules may apply where the capital property of a municipality used primarily in taxable activities begins to be used primarily in exempt activities as a result of the amendment (reference should also be made to section 198.1 of the Act).

The amendment applies to supplies for which any consideration becomes due after 1996 or is paid after 1996 without having become due.

Section 23 Supplies of Unbottled Water

Section 23 of Part VI of Schedule V exempts certain supplies of unbottled water when made by a person other than a government or by a government designated by the Minister of National Revenue to be a municipality for the purposes of this section.

The amendment clarifies that the service of delivering the water is also exempt only where the delivery is made by the person who supplies the water, and that supply of water is exempt.

The amendment applies to supplies for which all of the consideration becomes due or is paid without having become due after ANNOUNCEMENT DATE.

Section 24 Municipal Transit Services

Section 24 of Part VI of Schedule V exempts a supply of a municipal transit service. "Municipal transit service" is defined in section 1 of this Part as a public passenger transportation service supplied by a transit authority all or substantially all of whose services are provided within a particular municipality and its surrounding areas. "Transit authority" is also defined in section 1 of this part. A municipal transit service does not include a charter service or a service that is part of a tour. For example, where a school charters a city bus for a special field trip, or a local transit authority offers sight-seeing tours of a city, the service is taxable. The Minister of National Revenue is given the authority to designate a particular public transportation service to be an exempt municipal transit service.

This provision is intended to exempt only services supplied directly to the public. For example, if an organization contracts with a municipality to provide transit services to the public on behalf of the municipality, the charges to the public are exempt. However, any charges by the organization to the transit authority for the provision of these services are intended to be taxable. Rather than relying on

this as a criterion of designation, the section is amended to specify therein that the supply must be made to a member of the public.

The amendment applies to supplies for which all of the consideration becomes due or is paid without having become due after ANNOUNCEMENT DATE.

Clause 116

Supplies of Real Property by Public Service Bodies

ETA
Schedule V, Part VI, section 25

Section 25 of Part VI of Schedule V lists exempt supplies of real property by public service bodies. It should be noted that, as a result of the amendment to the definition "public service body" in section 1 of Part VI, section 25 will not apply to charities (as newly defined in subsection 123(1)) as of January 1, 1997. Rather, as of that day, the special exemptions for supplies of real property by charities are contained in section 1 of new Part V.1 of Schedule V (see commentary on clause 102).

Subclause 116(1)

Sales of Vacant Land

ETA
Schedule V, Part VI, paragraph 25(*c*)

Paragraph (*c*) of section 25 of Part VI of Schedule V excludes from the exemption under that section sales of vacant land to an individual or a trust all of the beneficiaries of which are individuals and all the contingent beneficiaries of which are individuals or charities.

Paragraph 25(*c*) is amended as a consequence of the new definition "personal trust" in subsection 123(1) (see commentary on the definition of that term under clause 1). The term "personal trust" encompasses the type of trust referred to in existing paragraph 25(*c*).

However, this term is somewhat broader in that it includes all testamentary trusts, regardless of who the beneficiaries are. As a result, a sale by a public service body of vacant land to a testamentary trust will not be exempt under this provision.

This amendment applies to supplies made after ANNOUNCEMENT DATE.

Subclause 116(2)

Short-Term Leases

ETA
Schedule V, Part VI, paragraph 25(*f*)

Paragraph 25(*f*) excludes supplies made under a lease with a term of less than one month from the exemption for supplies of real property by a public service body. The amendment clarifies that the test is based on a period of continuous possession or use.

This clarification is consistent with similar wording changes made to the definitions "residential complex" and "residential trailer park" in subsection 123(1) and "long-term lease" in subsection 254.1(1) as well as to sections 6, 7 and 8.1 of Part I of Schedule V.

For consistency, these wording changes are all effective on, or in relation to supplies made on or after, September 15, 1992, the date as of which subparagraph 25(*f*)(i) was last amended. However, these amendments do not apply for the purposes of determining any amount claimed in a return under Division V, or in an application under Division VI, that was received at a Revenue Canada office before ANNOUNCEMENT DATE.

Subclause 116(3)

Sales of Seized or Repossessed Real Property

ETA
Schedule V, Part VI, paragraph 25(*i*)

New paragraph 25(*i*) of Part VI of Schedule V is added to carve out of the exemption for supplies of real property by a public service body any supply of property that the body has, as a creditor, seized or repossessed in circumstances where subsection 183(1) of the Act applied.

For example, a municipality can, under the law of some provinces, cause the supply of real property of a person who defaults in paying municipal taxes. According to the rules set out in subsections 183(1) and (10), the municipality in this case would be deemed to have seized the property and would be considered to be the person making the supply. New paragraph 25*(i)* of Part VI of Schedule V ensures that the supply is not subject to the exemption under section 25.

This amendment applies to supplies made after ANNOUNCEMENT DATE. It also applies to any supply made on or before that day unless no amount of tax was, on or before that day, charged or collected in respect of the supply, or, if an amount of tax was charged or collected before that day, the Minister of National Revenue received, before that day, an application under subsection 261(1) for a rebate in respect of that amount.

Clause 117

Inter-Municipal Supplies

ETA
Schedule V, Part VI, section 28

Section 28 of Part VI of Schedule V exempts certain supplies between municipalities and their "para-municipal" organizations (which are defined in section 1 of that Part). This exemption

recognizes that many municipalities provide municipal services through semi-autonomous bodies that they establish, such as irrigation authorities or fire departments. These organizations are generally referred to as para-municipal organizations.

New paragraph (*f*) of section 28 excludes from the inter-municipal supply rules a supply of electricity, gas, steam or telecommunication services made by a public utility organization. The amendment will ensure consistency in the GST treatment of supplies by public utility organizations. Under the existing legislation, municipalities that own or control a public utility organization are able to purchase electricity, gas, steam or telecommunications services on an exempt basis while municipalities that do not own or control a public utility organization must pay tax on these supplies. The amendment eliminates this inequity.

It should be noted that the change-of-use rules under subdivision d of Division II may apply, e.g., where the capital personal property of public utilities used primarily in exempt activities begins to be used primarily in taxable activities as a result of the amendment.

While the supply of electricity, gas, steam or telecommunications services by a public utility organization to a municipality is excluded from the exemption, supplies of property or services by a municipality to a public utility organization that it owns and controls may continue to qualify for the exemption. For example, a municipality will continue to be able to provide such services such as legal or accounting services on an exempt basis to the public utilities that it owns or controls.

New paragraph 28(*f*) applies to supplies of electricity, gas, steam or telecommunications services for which consideration becomes due, or is paid without having become due, after ANNOUNCEMENT DATE.

Clause 118

Definitions – Prescription Drugs and Biologicals

ETA
Schedule VI, Part I, section 1

Section 1 of Part I of Schedule VI defines several terms that are used throughout the Part.

Subclause 118(1)

Definition "practitioner"

ETA
Schedule VI, Part I, section 1

The term "practitioner" used in Part I of Schedule VI is repealed and replaced by the term "medical practitioner" for consistency with the terminology used in Part II of Schedule V to describe the same type of individual.

The amendment applies as of ANNOUNCEMENT DATE.

Subclause 118(2)

Definition "prescription"

ETA
Schedule VI, Part I, section 1

The amendment to the definition "prescription" in section 1 of Part I of Schedule VI is consequential to the amendment to the definition "practitioner" in this section. The term "practitioner" is replaced by the term "medical practitioner".

This amendment applies as of ANNOUNCEMENT DATE.

Subclause 118(3)

ETA
Schedule VI, Part I, Definition "medical practitioner"

The definition "medical practitioner" is added for purposes of Part I of Schedule VI. The term replaces the term "practitioner" for consistency with Part II of Schedule V.

This amendment applies as of ANNOUNCEMENT DATE.

Clause 119

Supply of a Drug

ETA
Schedule VI, Part I, section 3

The amendments to paragraphs (*a*) and (*b*) of section 3 of Part I of Schedule VI are consequential to the amendment to the definition "practitioner" in section 1 of this Part (see commentary on clause 118). The amendment replaces the term "practitioner" with the term "medical practitioner" for consistency with the term used in Part II of Schedule V.

The amendment applies to supplies made after ANNOUNCEMENT DATE.

Clause 120

ETA
Schedule VI, Part II, heading

The heading for Part II of Schedule V is amended, effective on Royal Assent, to read "Medical and Assistive Devices", to better describe the types of property that are zero-rated under this Part.

Clause 121

Definition "practitioner"

ETA
Schedule VI, Part II, section 1

The definition "practitioner" in section 1 of Part II of Schedule VI is amended to read "medical practitioner" for consistency with the term used in Part II of Schedule V.

The amendment applies as of ANNOUNCEMENT DATE.

Clause 122

Medical Devices

ETA
Schedule VI, Part II, sections 2 to 4

Section 2 Communication Devices

Amended section 2 of Part II of Schedule VI is an amalgamation of existing section 2 and existing subparagraph 2(*d*)(iv) of the *Medical Devices (GST) Regulations*, which will be repealed. Amended section 2 therefore applies to all communication devices that are specially designed for use by an individual with a hearing, speech or vision impairment, and no longer contains a prescription requirement for communication devices for use with a telegraph or telephone apparatus.

The amendment applies to supplies for which consideration becomes due, or is paid without having become due, after ANNOUNCEMENT DATE.

Section 3 Heart Monitoring Device

Section 3 of Part II of Schedule VI is amended to replace the term "practitioner" with the term "medical practitioner". This amendment

is consequential to the repeal of the definition "practitioner" in this Part (see commentary on clause 121).

The provision is also amended to ensure that devices supplied under a prescription issued to a consumer are zero-rated regardless of who the legal recipient of the supply is.

The amendments apply to supplies for which consideration becomes due or is paid without having become due after ANNOUNCEMENT DATE.

Section 4 Hospital Beds

Existing section 4 of Part II of Schedule VI zero-rates the supply of a hospital bed to individuals when the supply is made on the written order of a medical practitioner or to hospital authorities. The amendment extends the unconditional zero-rating to operators of any health care facilities. This would include long-term care facilities.

The intent of the legislation is to zero-rate only beds that are specially designed for patient care, which are similar to those used in hospitals. Beds with adjustable mattresses that can be purchased by individuals at department stores and are designed primarily to provide increased comfort are not zero-rated.

The section is also amended to replace the term "practitioner" with the term "medical practitioner" as a consequence of the amendment to section 1 of this Part (see commentary on clause 121).

These amendments apply to supplies for which consideration becomes due, or is paid without having become due, after ANNOUNCEMENT DATE.

Clause 123

Artificial Breathing Apparatus

ETA
Schedule VI, Part II, section 5 of French Version

The French version of section 5 of Part II of Schedule VI is amended to replace the reference to a person "suffering" from a respiratory disorder with a reference to a person "having" such a disorder.

This amendment is effective on Royal Assent.

Clause 124

Aerosol Chamber and Respiratory Monitor

ETA
Schedule VI, Part II, sections 5.1 and 5.2

Section 5.1 Aerosol Chamber

Section 5.1 of Part II of Schedule VI is amended to replace the term "practitioner" with the term "medical practitioner". This amendment is consequential to the repeal of the definition "practitioner" in this Part (see commentary on clause 121).

The section is also amended to ensure that the devices described therein are zero-rated when supplied under a prescription issued to a consumer, regardless of who the legal recipient of the supply is.

These amendments apply to supplies made after ANNOUNCEMENT DATE.

Section 5.2 Respiratory Monitor

New section 5.2 of Part II of Schedule VI zero-rates a supply of a respiratory monitor, nebulizer, tracheostomy supply, gastro-intestinal tube, dialysis machine, infusion pump or intravenous apparatus, that

can be used in the residence of an individual. Specifically, the devices are zero-rated when they are specially designed to be used in an environment outside the hospital.

New section 5.2 incorporates references to medical devices contained in existing paragraph 2(*a*) of the *Medical Devices (GST) Regulations*, which will be repealed.

The amendment applies to supplies made after ANNOUNCEMENT DATE.

Clause 125

Zero-Rated Assistive Devices

ETA
Schedule VI, Part II, sections 7 and 8

Section 7 Device to Convert Sound to Light Signals

Section 7 of Part II of Schedule VI is amended to replace the term "practitioner" with the term "medical practitioner". This amendment is consequential to the repeal of the definition "practitioner" in this Part (see commentary on clause 121).

The section is also amended to ensure that the devices described therein are zero-rated when supplied under a prescription issued to a consumer, regardless of who the legal recipient of the supply is.

These amendments apply to supplies made after ANNOUNCEMENT DATE.

Section 8 Selector Control Device

Section 8 of Part II of Schedule VI is amended to replace the expression "physically disabled individual" with the more generally accepted expression "individual with a disability".

The amendment is effective on Royal Assent.

Section 9 Eye Glasses and Contact Lenses

Section 9 of Part II of Schedule VI is amended to ensure that eye glasses and contact lenses are zero-rated when supplied, for the treatment or correction of a defect of vision, under a prescription issued to a consumer, regardless of who the legal recipient of the supply is.

This amendment applies to supplies made after ANNOUNCEMENT DATE.

Clause 126

Orthodontic Appliances

ETA
Schedule VI, Part II, section 11.1

New section 11.1 of Part II of Schedule VI unconditionally zero-rates a supply of an orthodontic appliance. Under the existing legislation, these appliances are zero-rated unconditionally under section 23 of this Part as an orthopaedic brace.

The amendment applies to supplies for which all of the consideration becomes due or is paid without having become due after ANNOUNCEMENT DATE.

Clause 127

Aids to Locomotion and Patient Lifters

ETA
Schedule VI, Part II, sections 14 and 15

Sections 14 and 15 of Part II of Schedule VI are amended to replace the expression "disabled individual" with the more generally accepted expression "individual with a disability".

These amendments are effective on Royal Assent.

Clause 128

Medical Devices

ETA
Schedule VI, Part II, sections 18 to 20

Section 18 Auxiliary Driving Control

Section 18 of Part II of Schedule VI is amended to replace the expression "physically disabled individual" with the more generally accepted expression "individual with a disability".

The amendment is effective on Royal Assent.

Section 18.1 Vehicles Adapted for Use with a Wheelchair

Existing section 18.1 of Part II of Schedule VI zero-rates the service of modifying a motor vehicle such as a car or a mini-van to meet the needs of an individual with a disability and requiring the use of a wheelchair. Goods supplied in conjunction with the service would also be zero-rated where these are necessary to the modification of the vehicle for the stated purpose.

Existing section 18.1 requires the vehicle to be owned by an individual. Amended section 18.1 eliminates this restriction and extends the zero-rating to cases where the vehicle is owned by non-individuals, such as corporations, associations, or municipal or governmental organizations.

The amendment applies to supplies for which any consideration becomes due after ANNOUNCEMENT DATE or is paid after that day without having become due.

Sections 19 and 20 Patterning Device and Toilet-, Bath- or Shower-Seat

Sections 19 and 20 of Part II of Schedule VI are amended to replace the expression "disabled individual" with the more generally accepted expression "individual with a disability".

These amendments are effective on Royal Assent.

Clause 129

Extremity Pumps and Catheters

ETA
Schedule VI, Part II, sections 21.1 and 21.2

Sections 21.1 and 21.2 of Part II of Schedule VI are amended to replace the term "practitioner" with the term "medical practitioner". This amendment is consequential to the repeal of the definition "practitioner" in this Part (see commentary on clause 121).

These sections are also amended to ensure that the devices described therein are zero-rated when supplied under a prescription issued to a consumer, regardless of who the legal recipient of the supply is.

These amendments apply to supplies made after ANNOUNCEMENT DATE.

Clause 130

Orthotic and Orthopaedic Devices

ETA
Schedule VI, Part II, sections 23 and 23.1

Amended section 23 of Part II of Schedule VI combines sections 23 and 23.1 to clarify the treatment of orthotic and orthopaedic devices. Amended section 23 unconditionally zero-rates the supply of orthotic

or orthopaedic devices that are made to order for an individual. It should be noted that orthodontic appliances are unconditionally zero-rated under new section 11.1. All other orthotic and orthopaedic devices will be zero-rated only where they are purchased under a prescription issued by a medical practitioner to a consumer. Therefore, items, such as cradle arm slings, cervical collars, knee braces and obus forms, are taxable at a rate of seven per cent unless purchased on the written order of a medical practitioner.

As of ANNOUNCEMENT DATE, the term "medical practitioner" is used instead of "practitioner" for consistency with the terminology used in Part II of Schedule V. The other amendments apply to supplies for which all of the consideration becomes due, or is paid without having become due, or on after THE DAY THAT IS 21 DAYS AFTER ANNOUNCEMENT DATE.

Clause 131

Appliance for Individual with Crippled or Deformed Foot

ETA
Schedule VI, Part II, section 24 of French version

The French version of section 24 of Part II of Schedule VI is amended to replace the reference to persons "suffering" from a disability or deformity of the foot or ankle with a reference to persons "having" such a disability or deformity of the foot or ankle.

This amendment is effective on Royal Assent.

Clause 132

Specially Designed Footwear

ETA
Schedule VI, Part II, section 24.1

Existing paragraph 2(*c*) of the *Medical Devices (GST) Regulations* zero-rates footwear that is specially designed for an individual with a crippled or deformed foot or similar disability. That provision will be repealed and replaced with new section 24.1 of Part II of Schedule VI, which requires that such footwear be supplied on the written order of a medical practitioner in order to be zero-rated.

New section 24.1 applies to supplies for which all of the consideration becomes due or is paid without having become due after 1996.

Clause 133

Cane or Crutch

ETA
Schedule VI, Part II, section 27

Section 27 of Part II of Schedule VI is amended to replace the expression "physically disabled individual" with the more generally accepted expression "individual with a disability". In addition, the word "specially" has been added before the term "designed" to make it consistent with the wording of similar provisions in this Part.

The amendment is effective on Royal Assent.

Clause 134

Articles Specially Designed for Blind Individuals

ETA
Schedule VI, Part II, section 30

Section 30 of Part II of Schedule VI is amended to replace the term "practitioner" with the term "medical practitioner". This amendment is consequential to the repeal of the definition "practitioner" in this Part (see commentary on clause 121).

In addition, the expression "the blind" is replaced by the more generally accepted expression "blind individuals".

The amendment applies to supplies made after ANNOUNCEMENT DATE.

Clause 135

Guide Dogs

ETA
Schedule VI, Part II, sections 33 and 33.1 of French Version

The French version of sections 33 and 33.1 of Part II of Schedule VI are amended to use more generally accepted terminology and to correct grammatical errors.

These amendments are effective on Royal Assent.

Clause 136

Assistive Devices

ETA
Schedule VI, Part II, sections 35 to 40

Sections 35 and 36 Graduated Compression Stocking and Specially Designed Clothing

Sections 35 and 36 of Part II of Schedule VI are amended to replace the term "practitioner" with the term "medical practitioner". This amendment is consequential to the repeal of the definition "practitioner" in this Part (see commentary on clause 121).

In addition, the expression "disabled individual" in section 36 is replaced with the more generally accepted expression "individual with a disability".

Finally, the sections are amended to ensure that the articles described therein are zero-rated when supplied under a prescription issued to a consumer, regardless of who the legal recipient of the supply is.

These amendments apply to supplies made after ANNOUNCEMENT DATE.

Sections 37 to 40

These sections deal with assistive devices that are currently prescribed under the *Medical Devices (GST) Regulations*. They are added to Part II of Schedule VI so that all of the existing provisions zero-rating medical or assistive devices may be found in the body of the Act as opposed to the Act and those Regulations. Those Regulations will be repealed.

These amendments apply to supplies made after ANNOUNCEMENT DATE.

Section 37 Incontinence Products

New section 37 of Part II of Schedule VI zero-rates a supply of an incontinence product that is specially designed for use by an individual with a disability. This includes a broad range of briefs, pants, pads and underpads – disposable and reusable – that are specially designed to assist an individual in coping with an incontinence disorder. Baby diapers are not included under this section.

New section 37 incorporates the reference to incontinence products contained in subparagraph 2(*d*)(i) of the *Medical Devices (GST) Regulations*.

Section 38 Feeding Utensils

New section 38 of Part II of Schedule VI zero-rates a supply of a feeding utensil or other gripping device that is specially designed for use by an individual with impaired use of hands or similar disability. New section 38 replicates paragraph 2(*b*) of the *Medical Devices (GST) Regulations*.

Section 39 Reaching Aids

New section 39 of Part II of Schedule VI zero-rates a supply of a reaching aid. These goods must be specially designed to assist an individual with a disability in order to be supplied on a zero-rated basis. New section 39 incorporates the reference to reaching aids contained in subparagraph 2(*d*)(ii) of the *Medical Devices (GST) Regulations*.

Section 40 Prone Boards

New section 40 of Part II of Schedule VI zero-rates a supply of a prone board that is specially designed for use by an individual with a disability. These are devices that provide a safe support at a range of angles between the prone and standing positions. The device must be specially designed to assist an individual with a disability in order to be supplied on a zero-rated basis.

New section 40 incorporates references to prone boards currently contained in subparagraph 2(*d*)(iii) of the *Medical Devices (GST) Regulations*.

Clause 137

Basic Groceries

ETA
Schedule VI, Part III, section 1

Section 1 of Part III of Schedule VI to the Act describes supplies of food and beverages for human consumption that are generally zero-rated, unless they are specifically excluded by paragraphs (*a*) to (*r*) of that section.

Subclause 137(1)

Non-Alcoholic Malt Beverages

ETA
Schedule VI, Part III, paragraph 1(*b*)

The amendment deletes paragraph 1(*b*), which refers to "non-alcoholic malt beverages". These products are already included under other provisions such as paragraph 1(*c*), which refers to carbonated beverages.

This amendment is effective on Royal Assent.

Subclause 137(2)

Juice Bars and Frozen Non-Dairy Substitutes

ETA
Schedule VI, Part III, paragraphs 1(*j*) and (*k*)

Existing paragraph 1(*j*) excludes ice lollies from zero-rated treatment. The amendment adds a reference to juice bars and products that are

similar to ice lollies, or flavoured, coloured or sweetened ice waters. Therefore, juice bars and similar products will be taxable.

Existing paragraph 1(*k*) refers to ice cream, ice milk, sherbet and frozen yoghurt or frozen puddings packaged in single servings. The amendment adds a reference to non-dairy substitutes of any of these products. In addition, to be included in paragraph (*k*) and, therefore, taxable, products must be either packaged or sold in single servings, which is consistent with the criteria under subparagraph 1(*o*)(v).

These amendments apply to supplies for which all of the consideration becomes due or is paid without having become due on or after THE DAY THAT IS 21 DAYS AFTER ANNOUNCEMENT DATE.

Subclause 137(3)

Prepared Food or Beverages

ETA

Schedule VI, Part III, paragraphs 1(*o*) to (*o*.5)

Existing paragraph 1(*o*) lists certain prepared foods and beverages that are taxable under the GST. Amended paragraph 1(*o*) retains this exclusion from zero-rated treatment for food and beverages that are heated for consumption.

New paragraph 1(*o*.1) replaces existing subparagraph 1(*o*)(ii), which refers to "prepared salads". The new paragraph refers to salads that are not canned or vacuum sealed. This ensures that canned prepared salads are not caught by the exclusion as a result of the deletion of the words "sold in a form suitable for immediate consumption". For example, fruit salad in a can will continue to be zero-rated.

New paragraph 1(*o*.2) replaces existing subparagraph 1(*o*)(iii) dealing with sandwiches and similar products. The new paragraph differs only in that it includes the words "other than when frozen" as a substitute for the existing test of whether the product is sold "in a form suitable for immediate consumption".

Existing subparagraph 1(*o*)(iv), which excludes from zero-rated treatment platters and arrangements of prepared foods, is renumbered as new paragraph 1(*o*.3).

Existing subparagraph 1(*o*)(vi) is renumbered as paragraph 1(*o*.4).

New paragraph 1(*o*.5) refers to food and beverages sold under, or in conjunction with, a catering contract. This clarifies that, where food is provided along with the service of catering, the supplies of the food and the service are taxable.

These amendments apply to supplies for which all of the consideration becomes due or is paid without having become due on or after THE DAY THAT IS 21 DAYS AFTER ANNOUNCEMENT DATE.

Clause 138

Grains or Seeds and Fodder Crops

ETA
Schedule VI, Part IV, section 2

Existing section 2 of Part IV of Schedule VI zero-rates supplies of grains or seeds in their natural state or treated for storage purposes or hay, silage or other fodder crops where these are ordinarily used to produce food for human consumption, or feed for livestock or poultry. To qualify for zero-rated treatment, they must be sold in quantities larger than those in which they are typically sold to consumers. Specifically excluded from the application of this section are grains, seeds or grain or seed mixtures to be used as feed for wild birds or as pet food.

The section is amended to include grains or seeds irradiated for storage purposes.

This amendment applies to supplies of grains or seeds for which any consideration becomes due after ANNOUNCEMENT DATE, or is paid after that day without having become due.

Clause 139

Fertilizer

ETA
Schedule VI, Part IV, section 5

Existing section 5 of Part IV of Schedule VI zero-rates supplies of fertilizer sold in bulk or in containers of less than 25 kg of fertilizer where the total quantity of fertilizer supplied at a given time is at least 500 kg. Since compost may be used as topsoil for purposes other than commercial farming, this section is amended to ensure that compost will not be zero-rated, regardless of the quantity sold.

This amendment applies to supplies made after ANNOUNCEMENT DATE.

Clause 140

Supplies to Unregistered Foreign Carriers

ETA
Schedule VI, Part V, paragraph 2(*a*)

Existing section 2 of Part V of Schedule VI zero-rates supplies of property or services to a non-resident operator of a ship, aircraft or railway if the operator is not registered for the GST. The purpose of this provision is to ensure that such operators are not disadvantaged relative to operators who are GST registrants and, as such, are entitled to recover any tax paid by claiming input tax credits.

Existing paragraph (*a*) of that section provides zero-rated treatment to inputs acquired for consumption, use or supply in transporting passengers or freight to or from Canada. The amendment to paragraph 2(*a*) clarifies that, where the international carrier transports passengers or freight through Canada, the carrier will be able to acquire inputs on a zero-rated basis. For example, where an international carrier stops in Gander, Newfoundland to refuel in the

course of a flight beginning and terminating outside Canada, the amendment ensures that the carrier will obtain the fuel on a zero-rated basis.

This amendment applies to supplies made after ANNOUNCEMENT DATE.

Clause 141

Supplies of Fuel to International Carriers

ETA
Schedule VI, Part V, paragraph 2.1(*a*)

Existing section 2.1 of Part V of Schedule VI zero-rates a supply of fuel made to a registered carrier for use in providing international transportation services. This provision reduces the registered carrier's cash-flow costs associated with purchases of fuel, which is typically a carrier's single largest operating cost. The purpose of this provision is to ensure that such operators are not disadvantaged relative to unregistered foreign carriers whose purchases of fuel for international services are zero-rated under section 2 of this Part.

Existing paragraph 2.1(*a*) provides zero-rated treatment to fuel used in transporting passengers or freight to or from Canada. The amendment clarifies that the provision also applies where the registered carrier transports passengers or freight through Canada. An example is where a registered carrier makes a stop in Gander, Newfoundland for refuelling in the course of a flight beginning and terminating outside Canada. The amendment ensures that the registered carrier may obtain fuel on a zero-rated basis in these circumstances. This amendment parallels a similar change made to paragraph 2(*a*) of this Part (see commentary on clause 140).

This amendment applies to supplies of fuel made after ANNOUNCEMENT DATE.

Clause 142

Services to Non-Residents

ETA
Schedule VI, Part V, sections 4 to 6.2

The amendment repeals and replaces existing sections 4 to 6 of Part V of Schedule VI to the Act. Each section is described below.

Section 4 Services Performed on Temporarily Imported Goods

Existing section 4 of Part V of Schedule VI zero-rates any service, other than a transportation service, performed on goods that are temporarily imported into Canada for the sole purpose of having the service performed. An example is where goods are produced in Canada and exported, then returned to Canada for repair. Section 8 of Schedule VII to the Act relieves the tax on the goods themselves that would otherwise be applicable at the time of the importation.

Section 4 is amended to clarify that zero-rated treatment extends to goods supplied in conjunction with the service. This measure ensures that parts and services supplied in these circumstances are both relieved of tax.

This amendment applies to supplies made after ANNOUNCEMENT DATE.

Section 5 Agents' Services

Section 5 zero-rates a purchasing or selling agent's services to a non-resident person. In many situations, however, a representative of a non-resident person is not an "agent" of the non-resident person. The amendment broadens the scope of section 5 by extending it to services of arranging for, procuring or soliciting orders for supplies by or to a non-resident person.

As in the case of a service of acting as an agent of a non-resident person, to be zero-rated under amended section 5, the service must be in respect of a supply to the non-resident person that is zero-rated

under Part V of Schedule VI or a supply made outside Canada by or to the non-resident person. For example, a purchasing representative may zero-rate services to a non-resident person of arranging for or procuring orders of goods that will either be exported on a zero-rated basis under section 1 of Part V of Schedule VI or supplied outside Canada to the non-resident person. It is not necessary that the purchasing representative have the authority to conclude the contracts for the purchase of the goods on behalf of the non-resident person.

Similarly, the service of a sales representative of arranging for, procuring or soliciting orders in Canada for a non-resident person may be zero-rated if the non-resident's supply is made outside Canada. In interpreting paragraph 5(*b*), it should be noted that certain supplies made by non-residents in Canada are considered under subsection 143(1) to be made outside Canada. Also, as in the case of services of purchasing representatives, it is not necessary that the sales representative have the authority to conclude the contract of sale in Canada on behalf of the non-resident person.

This amendment is effective January 1, 1991.

Section 6 Emergency Repair Services

A domestic carrier, such as a railway, is often responsible for repairing damages to cargo containers or conveyances belonging to other carriers while the containers or conveyances are in the domestic carrier's possession. Existing section 6 zero-rates the repair service if supplied to a non-resident person.

Amended section 6 contains the words "or transported" to ensure the section applies where the carrier is not necessarily "using" a particular conveyance or cargo container but merely transports it. Other minor wording changes are made for consistency with other provisions of Part V. For example, the word "goods" is changed to "property".

This amendment applies to supplies made after ANNOUNCEMENT DATE.

Section 6.1 Repair of Railway Rolling Stock

Existing section 6 deals with repair services that are in respect of a conveyance or cargo container and are supplied by a carrier to a non-resident person. However, there are service providers who are not carriers. Under the existing rules, such suppliers would be at a competitive disadvantage relative to carriers and relative to non-resident suppliers of repair services. New section 6.1 zero-rates supplies made to unregistered non-residents of emergency repairs to railway rolling stock. Any repair parts supplied in conjunction with the zero-rated service are also zero-rated.

New section 6.1 applies to supplies made after ANNOUNCEMENT DATE.

Section 6.2 Repair and Storage of Cargo Containers

New section 6.2 zero-rates a supply to an unregistered non-resident person of emergency repair services or storage services in respect of empty cargo containers where the container is for use exclusively in the international transport of freight and is classified under specified tariff items. Any repair parts supplied with the zero-rated service are also zero-rated.

New section 6.2 applies to supplies made after ANNOUNCEMENT DATE.

Clause 143

Exported Services

ETA
Schedule VI, Part V, section 7

Section 7 of Part V of Schedule VI zero-rates exports of certain services supplied to non-resident persons.

Subclause 143(1)

Services Primarily for Consumption, Use or Enjoyment in Canada

ETA
Schedule VI, Part V, paragraphs 7(a) and (a.1)

The portion of the preamble to existing section 7 of Part V of Schedule VI that relates to the exclusion for supplies to non-resident individuals is replaced with new paragraph 7(*a*). This paragraph provides that a supply of a service to an individual may not be zero-rated under section 7 if the individual is in Canada at any time during which the individual has contact with the supplier in relation to the supply. This amendment does not alter the scope of the provision.

Existing paragraph 7(*a*), which excludes from zero-rating under section 7 a service that is primarily for consumption, use or enjoyment in Canada, is replaced with new paragraph 7(*a*.1). Difficulties have arisen in the determination of where certain services are primarily consumed, used or enjoyed. New paragraph 7(*a*.1) excludes from section 7 a supply of a service that is "rendered" to an individual while that individual is in Canada. Note that this applies whether or not the supply is "made" to an individual (i.e., whether an individual is the legal recipient within the meaning of subsection 123(1)). A supply may meet the condition in new paragraph 7(*a*) in that the service is not "supplied" to an individual who is in Canada. If, however, the service is "rendered" to an individual while the individual is in Canada, the supply would be excluded from zero-rating under section 7 by paragraph 7(*a*.1).

For example, where a non-resident company pays a fee for an employee to attend a management training session in Canada, the training service, although supplied to a non-resident person other than an individual, would not be zero-rated under section 7 because the service is rendered to the employee, an individual, while the employee is in Canada. It should be noted that, since section 7 is a general zero-rating provision for services, a more specific provision (e.g., section 18 of this Part) may apply in some cases.

This amendment applies to supplies for which all of the consideration becomes due or is paid without having become due on or after July 1, 1996.

Subclause 143(2)

Representatives' Services

ETA
Schedule VI, Part V, paragraph 7(*f*)

Section 7 zero-rates most supplies of services to non-resident persons. However, paragraph 7(*f*) excludes agents' services that are addressed under section 5 of Part V. This amendment is consequential to the amendment to section 5 with respect to services of arranging for, procuring or soliciting orders for supplies by or to a non-resident person (see commentary above). Amended paragraph 7(*f*) excludes these services from the application of section 7.

This amendment applies to supplies made after ANNOUNCEMENT DATE.

Clause 144

Goods Sold to Persons for Delivery Abroad

ETA
Schedule VI, Part V, section 12

Existing section 12 of Part VI of Schedule VI zero-rates goods supplied to a recipient if the supplier mails the goods, or has a common carrier deliver the goods to that recipient, at an address outside Canada.

The amendment broadens the scope of this zero-rating provision by eliminating the requirement that the goods be delivered to the recipient, as opposed to any other person, at a place outside Canada. It will allow for the zero-rating of goods where the supplier delivers the property to a common carrier or mails the property, either to the

recipient of the supply or to a third party, such as a non-resident relative of the recipient.

This amendment applies to supplies made after ANNOUNCEMENT DATE.

Clause 145

ETA
Schedule VI, Part V, sections 22 and 22.1

Section 22 Postal Services

Existing section 22 of Part V of Schedule VI zero-rates a supply of a telecommunication or postal service made by a registrant who carries on a business of supplying such services to a non-resident person who is not a registrant and who also carries on a business of supplying such services. The amendment to section 22 removes references to telecommunication services, which are addressed in new section 22.1 of this Part.

The amendment applies to supplies made after ANNOUNCEMENT DATE.

Section 22.1 Telecommunication Services

New section 22.1 of Part V of Schedule VI zero-rates a supply of a telecommunication service made by a registrant who carries on a business of supplying such services to a non-resident person who is not a registrant and who also carries on a business of supplying telecommunication services. "Telecommunication service" is newly defined in subsection 123(1) (see commentary on the definition of this term under clause 1).

The zero-rating provision does not include a supply of a telecommunication service where the telecommunication is emitted and received in Canada. For example, if an employee of a non-resident telecommunications carrier places a long-distance call from a place in Canada to another place in Canada and uses the

non-resident employer's calling card, the Canadian telecommunications carrier would have to charge the non-resident tax on the call, which is deemed to be made in Canada under the rules in new section 142.1 (see commentary on clause 7).

The amendment applies to supplies made after ANNOUNCEMENT DATE, and to supplies made on or before that day if the supply was not treated as taxable i.e., if the supplier did not charge tax or an amount was charged as tax and a refund of the amount was claimed in an application received at a Revenue Canada office before ANNOUNCEMENT DATE.

Clause 146

Advisory, Professional or Consulting Services

ETA
Schedule VI, Part V, paragraph 23(*d*)

Section 23 of Part V of Schedule VI zero-rates certain supplies of advisory, professional or consulting services made to non-resident persons. However, paragraph 23(*d*) excludes agents' services, which are dealt with under section 5. This amendment is consequential to the amendment to section 5 with respect to services of arranging for, procuring or soliciting orders for supplies by or to a non-resident person (see commentary above). Amended paragraph 23(*d*) excludes these services from the application of section 23.

This amendment applies to supplies made after ANNOUNCEMENT DATE.

Clause 147

International Flight

ETA
Schedule VI, Part VII, section 1

This amendment repeals the definition "international flight" in section 1 of Part VII of Schedule VI. It is replaced by the definition "international flight" in new subsection 180.1(1) (see commentary on clause 31).

This amendment is effective on THE DAY AFTER ANNOUNCEMENT DATE.

Clause 148

In-Flight Charges

ETA
Schedule VI, Part VII, section 5

This amendment provides that supplies to passengers of goods delivered or services performed on board an international flight while the flight is in Canada will no longer be zero-rated under Schedule VI. Nonetheless, these supplies remain non-taxable as the zero-rating provision is replaced by new subsection 180.1(2), which deems such supplies to be made outside Canada (see commentary on clause 31).

This amendment applies to supplies made after ANNOUNCEMENT DATE.

Clause 149

International Air Ambulance Services

ETA
Schedule VI, Part VII, section 15

New section 15 of Part VII of Schedule VI zero-rates services provided by Canadian air ambulance operators operating in the U.S. and international markets. Under the existing legislation, ambulance services are exempt under section 4 of Part II of Schedule V. That section is amended to exclude international air ambulance services to maintain competitive equity between Canadian suppliers and foreign suppliers of air ambulance services, who do not have to pay GST on their inputs (see commentary on clause 93).

The amendment is effective January 1, 1991.

Clauses 150

Transitional Provision – Deregistration of Public Service Bodies

Amendments to sections 148 and 148.1 of the *Excise Tax Act*, under clauses 9 and 10 respectively, increase the thresholds for determining which public service bodies qualify as "small suppliers" under the GST and are thereby not required to be registered to collect the tax. These amendments will enable many bodies that are currently registered to request to have their registration cancelled. Clause 150 provides that as long as they make their request within the two-year period commencing on ANNOUNCEMENT DATE, they will not be subject to change-of-use rules provided for in section 171 of the Act. In addition, the clause allows public service bodies that have been registered for less than one year to de-register under these circumstances. However, public service bodies who have their registration cancelled within the two-year period will avoid the change-of-use rules only as long as that registration was not as a result of a request made within the same period.

Clause 150 also provides that, since public service bodies that de-register under the specified circumstances would not be required to self-assess tax in respect of property held at the time they de-register, they would not be entitled to claim input tax credits in respect of that property should they subsequently register again for the tax.

Clause 151

Transitional Provision – Small Supplier Divisions

As explained above, the small supplier thresholds under Part IX of the *Excise Tax Act* are increased for public service bodies, effective ANNOUNCEMENT DATE. This will enable more public service bodies to have their divisions that fall below the threshold be designated as "small supplier divisions" under section 129 of the Act. As such, they would not be required to collect tax on supplies made through the division and would not be entitled to claim input tax credits for inputs used in making those supplies. Clause 151 provides that where this designation occurs within the two-year period commencing on ANNOUNCEMENT DATE, the body will avoid the self-assessment rules that normally apply when a division becomes a small supplier division.

This clause also provides that, to the extent that property of the division held at the time of its designation continues to be used in that division, that use will not be considered to be use in a small supplier division. This avoids the application of the usual deeming rule under which property is considered to be used otherwise than in commercial activities simply by virtue of it being used in a small supplier division. For capital property, this ensures that the designation of the division does not cause a deemed change in use of the property. For example, if the new small supplier division's activities were commercial activities and capital property of that division were transferred for use primarily in other commercial activities outside the division, there would not be any change in use. However, actual changes in use will be recognized in the normal manner, such as if property used primarily in a commercial activity of the new small supplier division subsequently began to be used primarily in an exempt activity.

Clause 152

Transitional Provision – Charities and Change in Use

This clause provides that, where the enactment of an amendment to the *Excise Tax Act* triggers a change in use of property of a charity (as newly defined in subsection 123(1)), and the charity is thereby deemed to have made a supply pursuant to the change-in-use provisions in Part IX of the Act, tax on that supply will be equal to zero. For example, an amendment to Part IX may exempt certain supplies made by a charity. On the day on which the amendment takes effect, the charity will be considered to have ceased or reduced its use of property in a commercial activity to the extent that the property is used in making the newly exempt supply. However, the change-in-use provisions will not result in the charity having to self-assess tax because the amount of such tax will be considered to be zero.

This transitional rule applies only to changes in use that occur as a result of the enactment of an amendment, that is, changes that are triggered on the day the amendment comes into force. Since the change-in-use provisions will still apply to deem the charity to have made and received a supply of the property, the charity will continue to be subject to any changes in use that occur subsequent to the day on which the amendment becomes effective.

Clause 153

Transitional Provision – Things Sent By Mail

Subsection 334(1) of the *Excise Tax Act* provides that anything sent by first class mail or its equivalent is deemed to be received by the person to whom it was sent on the day it was mailed. Under clause 153, this rule does not apply for the purpose of determining when the returns and rebate applications referred to in the provisions listed in this clause are considered to have been received by the Minister of National Revenue. Therefore, for example, if one of the listed provisions refers to a rebate application that was received by

the Minister before ANNOUNCEMENT DATE, it is referring to an application actually received at a Revenue Canada office before that day.

Clause 154

Transitional Provision - Application to Imported Goods

Clause 154 ensures that where an amended or newly enacted provision is to apply to goods imported on or after a particular day, it will also apply to goods accounted for under section 32 of the *Customs Act* on or after that day, even if they were physically imported before that day.

PART II

INCOME TAX ACT

Clause 155

Employee Benefits

ITA
6(1)(*e*.1), and 6(7)

Paragraph 6(1)(*e*.1) of the *Income Tax Act* applies where an individual receives a benefit in a taxation year that arises from the provision of property or a service to the individual or person related to the individual and that is required under paragraph 6(1)(*a*) or (*e*) of that Act to be included in computing the income of the individual for that taxation year. Existing paragraph 6(1)(*e*.1) of that Act then requires that, except where the supply of the property or service is a zero-rated or exempt supply under Part IX of the *Excise Tax Act*, an additional amount be added to the income of the individual equal to 7% of the value of the benefit net of any applicable provincial sales tax in respect of the property or service.

Under the revised treatment of employee and shareholder benefits, instead of a separate add-on of a GST component of the income tax benefit, the benefit amount to be included in income under paragraph 6(1)(*a*) or (*e*) is to be determined inclusive of the GST paid by the employer or corporation for the property or service which gives rise to the benefit. This is achieved by repealing paragraph 6(1)(*e*.1) and amending subsection 6(7) of the *Income Tax Act* to provide that any tax payable by the employer or corporation in purchasing or leasing an employer-provided automobile be included in the calculation of the benefit. The calculation must include any GST or provincial tax actually payable by the employer or corporation as well as such tax that would have been payable but for the fact that the employer or corporation is exempt from the payment of the tax because of the nature of the employer or corporation (e.g., where the employer is a provincial government) or the nature of the use of the property (e.g., if a provincial tax exemption applied to the purchase based on the use of the property).

These amendments apply to the 1996 and subsequent taxation years.

Clause 156

Automobile Benefits to Partners

ITA
12(1)(*y*)

Paragraph 12(1)(*y*) provides for the inclusion in the income of a partner for a taxation year the value of a benefit arising from the partnership making an automobile available to the partner. Such a benefit is calculated in the same manner as a similar employee benefit. This paragraph is amended by deleting the reference to paragraph 6(1)(*e*.1), which provides for the additional inclusion of an amount equal to GST on the benefit. Paragraph 6(1)(*e*.1) is repealed since the benefit under paragraph 6(1)(*e*) is to be determined on a tax-included basis.

This amendment applies to the 1996 and subsequent taxation years.

Clause 157

Shareholder Benefits

ITA
15

Section 15 of the *Income Tax Act* provides that the value of a benefit in respect of an automobile made available to a shareholder is to be determined in the same manner as the value of similar benefits to employees. The section is amended as a consequence of amendments to section 6 of that Act which provide that any tax payable on the purchase or lease of the automobile by the person making the automobile available must be included in determining the value of the benefit. Accordingly, subsections 15(1.3) and (1.4), which currently provide that the benefit be calculated on a tax-excluded basis with a separate add-on of an amount equal to the GST, are repealed.

In keeping with these changes, subsection 15(5) is also amended to reference subsection 6(7) and ensure that the rule requiring the value of the benefit to be calculated on a tax-included basis applies for purposes of the calculation of shareholder benefits under section 15.

These amendments apply to the 1996 and subsequent taxation years.

PART III

AN ACT TO AMEND THE EXCISE TAX ACT

Clause 158

GST Implementation Rules

S.C., 1990, c. 45, section 12

Subsection 12(2) of the Act that implemented the GST sets out the application rules for Part IX of the *Excise Tax Act* under which the GST is imposed. New subsection 12(4) is added as a consequence

of amendments to section 182 under Part IX (see commentary on clause 32). That section applies tax to any amount that is paid or forfeited or by which a debt or other obligation is reduced or extinguished as a consequence of a breach, modification or termination of an agreement for a taxable supply.

The amendment to the GST application rules ensures that section 182 applies with respect to such amounts paid, forfeited, reduced or extinguished after 1990, despite when the agreement for the supply was entered into. This application rule is not necessary under the existing legislation because existing subsection 182(1) deems a new supply to be made and the transitional rules for the GST specify that the tax applies to any supply deemed to have been made. In contrast, amended subsection 182(1) treats the amount paid or forfeited or by which the debt or obligation is reduced or extinguished as consideration for the original supply.

This amendment comes into force on THE DAY AFTER ANNOUNCEMENT DATE.

PART IV

AN ACT TO AMEND THE EXCISE TAX ACT

Clause 159

Free Supplies

S.C., 1994, c. 9, subsection 4(2)

The coming into force provision for the amendment that added subsection 141.01(4) to Part IX of the *Excise Tax Act* relating to "free supplies" is amended so that the subsection applies, without exception, as of January 1, 1991.