

Notice of Ways and Means Motion to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act

SUMMARY

These amendments implement income tax measures announced in the February 2000 budget and the October 2000 Economic Statement and Budget Update, as well as a variety of amendments to the *Income Tax Act* and related statutes most of which were originally included in Bill C-43 (first reading in September 2000) or otherwise previously announced. The measures of greater significance are summarized below.

(1) **Government's Five-Year Tax Reduction Plan:** provides \$100 billion in tax relief by 2004-2005, reducing the federal income tax paid by individuals resident in Canada by 21% on average. Families with children will receive an even larger tax cut – about 27% on average. Measures included will

(a) reduce tax rates at all income levels;

(b) eliminate the 5% deficit reduction surtax;

(c) increase support for families with children through the Canada Child Tax Benefit;

(d) reduce the capital gains inclusion rate;

(e) provide a tax-deferred capital gains rollover for investments in shares of certain small- and medium-sized active business corporations;

(f) provide a tax-deferred rollover for shares received on certain foreign spin-offs;

(g) reduce the 28% general corporate tax rate to 21%; and

(h) defer the taxation of certain stock option benefits, increase the stock option deduction and allow an additional deduction for certain stock option shares donated to charity.

(2) **Child Care Expense Deduction:** increases the maximum annual amount deductible for child care expenses for each eligible child in respect of whom the disability tax credit may be claimed to \$10,000 from \$7,000.

(3) **Disability Tax Credit:** extends the disability tax credit to individuals who, but for extensive therapy, would be markedly restricted in their activities of daily living; provides a supplement for disabled children under the age of 18 years; extends the transferability of the credit to most relatives of a disabled person; and, starting in 2001, increases the amounts on which the credit and the new supplement are calculated to \$6,000 and \$3,500 from \$4,293 and \$2,941, respectively.

(4) **Caregiver and Infirm Dependant Tax Credits:** increases the amount on which each of these credits is calculated to \$3,500 from \$2,446.

(5) **Medical Expense Tax Credit:** includes reasonable incremental costs relating to the construction of the principal place of residence of an individual who lacks normal physical development or has a severe and prolonged ability impairment to enable the individual to gain access to, or to be mobile within, the residence.

(6) **Donations of Ecological Gifts:** halves the normal capital gains inclusion for an ecological gift the value of which has been certified by the Minister of the Environment; and clarifies rules for calculating any capital gain or loss realized as a result of such a gift.

(7) **Scholarships, Fellowships and Bursaries:** increases by \$2,500 the exemption for scholarships, fellowships and bursaries received by a taxpayer in connection with the taxpayer's enrolment in a program in respect of which the taxpayer may claim the education tax credit.

(8) **Education Tax Credit:** doubles the monthly amounts on which the credit allowed to full-time and part-time students is based to \$400 and \$120, respectively.

(9) **Clergy Residence Deduction:** provides clearer rules for determining the amount deductible in respect of a clergy's residence.

(10) **CPP/QPP Contributions on Self-Employed Earnings:** introduces a deduction from business income for one-half of CPP/QPP contributions on self-employed earnings, with the other half of the contributions remaining eligible for the CPP/QPP tax credit.

(11) **Thin Capitalization:** amends the provisions to have the debt-to-equity ratio calculated on an averaged basis, reduces the acceptable debt-to-equity ratio to 2:1 from 3:1 and repeals the exemption for manufacturers of aircraft and aircraft components.

(12) **Non-Resident-Owned Investment Corporations:** phases out, over a three-year period, the special income tax regime for this type of corporation.

(13) **Weak Currency Debt:** limits the deductibility of interest expenses and adjusts foreign exchange gains and losses in respect of weak currency debts and associated hedging transactions.

(14) **Government Assistance – SR & ED:** categorizes as government assistance provincial deductions for SR&ED that exceed the amount of the SR&ED expenditures.

(15) **Foreign Tax Credits – Oil and Gas Production Sharing Agreements:** clarifies the eligibility for a business foreign tax credit of certain payments made by Canadian resident taxpayers to foreign governments on account of levies imposed in connection with production sharing agreements.

(16) **Foreign Exploration and Development Expenses (FEDE):** amends the rules to require that the FEDE of a claimant must relate to either foreign resource property acquired by the claimant or be made for the purpose of enhancing the value of foreign resource property owned, or to be owned, by the claimant; ensures appropriate treatment of FEDE in computing foreign tax credits, and imposes a 30% restriction for the annual deduction of new FEDE balances.

(17) **Flow-Through Share Investment Tax Credit:** introduces a temporary 15% investment tax credit for certain "grass roots" mineral exploration.

(18) **Foreign Branch Banking:** provides amendments to the *Income Tax Act* to accommodate branches of foreign banks operating in Canada.

(19) **Capital Dividend Account:** permits amounts distributed to a corporation from a trust in respect of capital gains or capital dividends realized or received by the trust to be included in the corporation's capital dividend account.

(20) **Taxpayer Migration:** enhances Canada's ability to tax the gains accrued by emigrants while they were resident in Canada.

(21) **Trusts:** addresses the tax treatment of property distributed from a Canadian trust to a non-resident beneficiary and introduces new measures dealing with the tax treatment of bare, protective and similar trusts as well as mutual fund trusts, health and welfare trusts and trusts governed by registered retirement savings plans and registered retirement income funds.

(22) **Advertising Expenses:** implements the income tax aspects of the June 1999 agreement between Canada and the United States concerning periodicals.

(23) **Simultaneous Control:** confirms that, in a chain of corporations, a corporation is controlled by its immediate parent even where the parent is itself controlled by a third corporation.

(24) **Foreign Affiliates Held by Partnerships:** ensures that Canadian corporations that are members of a partnership that holds shares of non-resident corporations are provided relief from double taxation on the income derived from those shares and receive the same tax treatment in respect of the disposition of those shares as if they held the shares directly.

(25) **Foreign Affiliate Losses:** provides that foreign accrual property losses of a foreign affiliate may be carried back three years and forward seven years for the purpose of determining the affiliate's foreign accrual property income for a particular taxation year.

(26) **Capital Tax:** extends to the end of 2000 the additional capital tax on life insurance corporations.

(27) **Stop-Loss Rule:** extends the rule that suspends recognition of a loss when a corporation, trust or partnership transfers depreciable property to transferors who are affiliated persons (including individuals).

(28) **Types of Property:** amends the corporate divisive reorganization rules to no longer require that each transferee corporation receive its pro-rata share of each type of property in the case of certain public corporate divisive reorganizations.

(29) **Replacement Property Rules:** provides that the replacement property rules do not apply to shares of the capital stock of corporations.

(30) **Limited Liability Partnerships:** ensures that a member of a "limited liability partnership" (under provincial law) is not automatically a "limited partner" for the purposes of the *Income Tax Act*.

(31) **Non-Resident Film and Video Actors:** applies a new 23% withholding tax on payments to non-resident film and video actors and their corporations, with an option to have the actor and corporation pay regular Part I tax on the net earnings instead.

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That it is expedient to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act as follows:

SHORT TITLE

Short title

1. This Act may be cited as the *Income Tax Amendments Act, 2000*.

PART 1

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

INCOME TAX ACT

2. (1) The portion of subsection 7(1) of the *Income Tax Act* before paragraph (a) is replaced by the following:

Agreement to
issue
securities to
employees

7. (1) Subject to subsections (1.1) and (8), where a particular qualifying person has agreed to sell or issue securities of the particular qualifying person (or of a qualifying person with which it does not deal at arm's length) to an employee of the particular qualifying person (or of a qualifying person with which the particular qualifying person does not deal at arm's length),

(2) Subsection 7(1.3) of the Act is replaced by the following:

Order of
disposition of
securities

(1.3) For the purposes of this subsection, subsections (1.1) and (8), subdivision c, paragraph 110(1)(d.01), subparagraph

110(1)(d.1)(ii) and subsections 110(2.1) and 147(10.4), and subject to subsection (1.31) and paragraph (14)(c), a taxpayer is deemed to dispose of securities that are identical properties in the order in which the taxpayer acquired them and, for this purpose,

(a) where a taxpayer acquires a particular security (other than under circumstances to which subsection (1.1) or (8) or 147(10.1) applies) at a time when the taxpayer also acquires or holds one or more other securities that are identical to the particular security and are, or were, acquired under circumstances to which any of subsections (1.1), (8) or 147(10.1) applied, the taxpayer is deemed to have acquired the particular security at the time immediately preceding the earliest of the times at which the taxpayer acquired those other securities; and

(b) where a taxpayer acquires, at the same time, two or more identical securities under circumstances to which either subsection (1.1) or (8) applied, the taxpayer is deemed to have acquired the securities in the order in which the agreements under which the taxpayer acquired the rights to acquire the securities were made.

Disposition of
newly-acquired
security

(1.31) Where a taxpayer acquires, at a particular time, a particular security under an agreement referred to in subsection (1) and, on a day that is no later than 30 days after the day that includes the particular time, the taxpayer disposes of a security that is identical to the particular security, the particular security is deemed to be the security that is so disposed of if

(a) no other securities that are identical to the particular security are acquired, or disposed of, by the taxpayer after the particular time and before the disposition;

(b) the taxpayer identifies the particular security as the security so disposed of in the taxpayer's return of income under this Part for the year in which the disposition occurs; and

(c) the taxpayer has not so identified the particular security, in accordance with this subsection, in connection with the disposition of any other security.

(3) Paragraph 7(1.4)(a) of the Act is replaced by the following:

(a) a taxpayer disposes of rights under an agreement referred to in subsection (1) to acquire securities of a particular qualifying person that made the agreement or of a qualifying

person with which it does not deal at arm's length (which rights and securities are referred to in this subsection as the "exchanged option" and the "old securities", respectively),

(4) Paragraph 7(1.4)(d) of the Act is replaced by the following:

(d) the taxpayer is deemed (other than for the purposes of subparagraph (9)(d)(ii)) not to have disposed of the exchanged option and not to have acquired the new option,

(5) Subsection 7(1.5) of the Act is replaced by the following:

Rules where
securities
exchanged

(1.5) For the purposes of this section and paragraphs 110(1)(d) to (d.1), where

(a) a taxpayer disposes of or exchanges securities of a particular qualifying person that were acquired by the taxpayer under circumstances to which either subsection (1.1) or (8) applied (in this subsection referred to as the "exchanged securities"),

(b) the taxpayer receives no consideration for the disposition or exchange of the exchanged securities other than securities (in this subsection referred to as the "new securities") of

(i) the particular qualifying person,

(ii) a qualifying person with which the particular qualifying person does not deal at arm's length immediately after the disposition or exchange,

(iii) a corporation formed on the amalgamation or merger of the particular qualifying person and one or more other corporations,

(iv) a mutual fund trust to which the particular qualifying person has transferred property in circumstances to which subsection 132.2(1) applied, or

(v) a qualifying person with which the corporation referred to in subparagraph (iii) does not deal at arm's length immediately after the disposition or exchange, and

(c) the total value of the new securities immediately after the disposition or exchange does not exceed the total value of the old securities immediately before the disposition or exchange,

the following rules apply:

(d) the taxpayer is deemed not to have disposed of or exchanged the exchanged securities and not to have acquired the new securities,

(e) the new securities are deemed to be the same securities as, and a continuation of, the exchanged securities, except for the purpose of determining if the new securities are identical to any other securities,

(f) the qualifying person that issued the new securities is deemed to be the same person as, and a continuation of, the qualifying person that issued the exchanged securities, and

(g) where the exchanged securities were issued under an agreement, the new securities are deemed to have been issued under that agreement.

Emigrant

(1.6) For the purposes of this section and paragraph 110(1)(d.1), a taxpayer is deemed not to have disposed of a share acquired under circumstances to which subsection (1.1) applied solely because of subsection 128.1(4).

Rights ceasing to be exercisable

(1.7) For the purposes of paragraphs (1)(b) and 110(1)(d), where a taxpayer receives at a particular time one or more particular amounts in respect of rights of the taxpayer to acquire securities under an agreement referred to in subsection (1) ceasing to be exercisable in accordance with the terms of the agreement, and the cessation would not, if this Act were read without reference to this subsection, constitute a transfer or disposition of those rights by the taxpayer,

(a) the taxpayer is deemed to have disposed of those rights at the particular time to a person with whom the taxpayer was dealing at arm's length and to have received the particular amounts as consideration for the disposition; and

(b) for the purpose of determining the amount, if any, of the benefit that the taxpayer is deemed by paragraph (1)(b) to have received as a consequence of the disposition referred to in paragraph (a), the taxpayer is deemed to have paid an amount to acquire those rights equal to the amount, if any, by which

(i) the amount paid by the taxpayer to acquire those rights (determined without reference to this subsection)

exceeds

(ii) the total of all amounts each of which is an amount received by the taxpayer before the particular time in respect of the cessation.

(6) The portion of subsection 7(2) of the Act before paragraph (a) is replaced by the following:

Securities held
by trustee

(2) If a security is held by a trustee in trust or otherwise, whether absolutely, conditionally or contingently, for an employee, the employee is deemed, for the purposes of this section and paragraphs 110(1)(d) to (d.1),

(7) The portion of paragraph 7(6)(a) of the Act before subparagraph (i) is replaced by the following:

(a) for the purposes of this section (other than subsection (2)) and paragraphs 110(1)(d) to (d.1),

(8) The portion of subsection 7(7) of the Act before the definition "qualifying person" is replaced by the following:

Definitions

(7) The definitions in this subsection apply in this section and in subsection 47(3), paragraphs 53(1)(j), 110(1)(d) and (d.01) and subsections 110(1.5), (1.6) and (2.1).

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

Deferral in
respect of
non-CCPC
employee
options

(8) Where a particular qualifying person (other than a Canadian-controlled private corporation) has agreed to sell or issue securities of the particular qualifying person (or of a qualifying person with which it does not deal at arm's length) to a taxpayer who is an employee of the particular qualifying person (or of a qualifying person with which the particular qualifying

person does not deal at arm's length), in applying paragraph (1)(a) in respect of the taxpayer's acquisition of a security under the agreement, the reference in that paragraph to "the taxation year in which the employee acquired the securities" shall be read as a reference to "the taxation year in which the employee disposed of or exchanged the securities" if

(a) the acquisition is a qualifying acquisition; and

(b) the taxpayer elects, in accordance with subsection (10), to have this subsection apply in respect of the acquisition.

Meaning of
"qualifying
acquisition"

(9) For the purpose of subsection (8), a taxpayer's acquisition of a security under an agreement made by a particular qualifying person is a qualifying acquisition if

(a) the acquisition occurs after February 27, 2000;

(b) the taxpayer would, if this Act were read without reference to subsection (8), be entitled to deduct an amount under paragraph 110(1)(d) in respect of the acquisition in computing income for the taxation year in which the security is acquired;

(c) where the particular qualifying person is a corporation, the taxpayer was not, at the time immediately after the agreement was made, a person who would, if the references in the portion of the definition "specified shareholder" in subsection 248(1) before paragraph (a) to "in a taxation year" and "at any time in the year" were read as references to "at any time" and "at that time", respectively, be a specified shareholder of any of

(i) the particular qualifying person,

(ii) any qualifying person that, at that time, was an employer of the taxpayer and was not dealing at arm's length with the particular qualifying person, and

(iii) the qualifying person of which the taxpayer had, under the agreement, a right to acquire a security; and

(d) where the security is a share,

(i) it is of a class of shares that, at the time the acquisition occurs, is listed on a prescribed stock exchange, and

(ii) where rights under the agreement were acquired by the taxpayer as a result of one or more dispositions to which subsection (1.4) applied, none of the rights that were the subject of any of the dispositions included a right to acquire a share of a class of shares that, at the time the rights were disposed of, was not listed on any prescribed stock exchange.

Election for
the purpose of
subsection (8)

(10) For the purpose of subsection (8), a taxpayer's election to have that subsection apply in respect of the taxpayer's acquisition of a particular security under an agreement referred to in subsection (1) is in accordance with this subsection if

(a) the election is filed, in the prescribed form and manner at a particular time that is before January 16 of the year following the year in which the acquisition occurs, with a person who would be required to file an information return in respect of the acquisition if subsection (8) were read without reference to paragraph (8)(b);

(b) the taxpayer is resident in Canada at the time the acquisition occurs; and

(c) the specified value of the particular security does not exceed the amount by which

(i) \$100,000

exceeds

(ii) the total of all amounts each of which is the specified value of another security acquired by the taxpayer at or before the particular time under an agreement referred to in subsection (1), where

(A) the taxpayer's right to acquire that other security first became exercisable in the year that the taxpayer's right to acquire the particular security first became exercisable, and

(B) at or before the particular time, the taxpayer has elected in accordance with this subsection to have subsection (8) apply in respect of the acquisition of that other security.

Meaning of
"specified
value"

(11) For the purpose of paragraph (10)(c), the specified value of a particular security acquired by a taxpayer under an agreement referred to in subsection (1) is the amount determined by the formula

$$A/B$$

where

A is the fair market value, determined at the time the agreement was made, of a security that was the subject of the agreement at the time the agreement was made; and

B is

(a) except where paragraph (b) applies, 1, and

(b) where the number or type of securities that are the subject of the agreement has been modified in any way after the time the agreement was made, the number of securities (including any fraction of a security) that it is reasonable to consider the taxpayer would, at the time the particular security was acquired, have a right to acquire under the agreement in lieu of one of the securities that was the subject of the agreement at the time the agreement was made.

Identical
options – order
of exercise

(12) Unless the context otherwise requires, a taxpayer is deemed to exercise identical rights to acquire securities under agreements referred to in subsection (1)

(a) where the taxpayer has designated an order, in the order so designated; and

(b) in any other case, in the order in which those rights first became exercisable and, in the case of identical rights that first became exercisable at the same time, in the order in which the agreements under which those rights were acquired were made.

Revoked
election

(13) For the purposes of this section (other than this subsection), an election filed by a taxpayer to have subsection (8) apply to the taxpayer's acquisition of a security is deemed never to have been filed if, before January 16 of the year following the year in which the acquisition occurs, the taxpayer files with the

person with whom the election was filed a written revocation of the election.

Deferral deemed
valid

(14) For the purposes of this section and paragraph 110(1)(d), where a taxpayer files an election to have subsection (8) apply in respect of the taxpayer's acquisition of a particular security and subsection (8) would not apply to the acquisition if this section were read without reference to this subsection, the following rules apply if the Minister so notifies the taxpayer in writing:

(a) the acquisition is deemed, for the purpose of subsection (8), to be a qualifying acquisition;

(b) the taxpayer is deemed to have elected, in accordance with subsection (10), at the time of the acquisition, to have subsection (8) apply in respect of the acquisition; and

(c) if, at the time the Minister sends the notice, the taxpayer has not disposed of the security, the taxpayer is deemed (other than for the purpose of subsection (1.5)) to have disposed of the security at that time and to have acquired the security immediately after that time other than under an agreement referred to in subsection (1).

Withholding

(15) Where, because of subsection (8), a taxpayer is deemed by paragraph (1)(a) to have received a benefit from employment in a taxation year, the benefit is deemed to be nil for the purpose of subsection 153(1).

Prescribed form
for deferral

(16) Where, at any time in a taxation year, a taxpayer holds a security that was acquired under circumstances to which subsection (8) applied, the taxpayer shall file with the Minister, with the taxpayer's return of income for the year, a prescribed form containing prescribed information relating to the taxpayer's acquisition and disposition of securities under agreements referred to in subsection (1).

(10) Subsections (1), (4), (6), (7) and (9) apply to the 2000 and subsequent taxation years except that

(a) a share acquired in 2000 under an agreement referred to in subsection 7(1) of the Act, as enacted by subsection (1), is

deemed to comply with the requirements of paragraph 7(9)(d) of the Act, as enacted by subsection (9), if, at all times during the period beginning at the time the agreement was made (determined without reference to subsection 7(1.4) of the Act, as enacted by subsections (3) and (4)) and ending at the time the share was acquired, the class of shares to which the share belongs was listed on a prescribed stock exchange;

(b) an election under subsection 7(1) of the Act, as enacted by subsection (9), to have subsection 7(8) of the Act, as enacted by subsection (9), apply in respect of a security acquired in 2000 is deemed to have been filed in a timely manner if it is filed on or before the day that is 60 days after the day on which this Act receives royal assent; and

(c) a written request under subsection 7(13) of the Act, as enacted by subsection (9), to revoke an election in respect of a security acquired in 2000 is deemed to have been filed in a timely manner if it is filed on or before the day that is 60 days after the day on which this Act receives royal assent.

(11) Subsection (2) applies to securities acquired, but not disposed of, before February 28, 2000 and to securities acquired after February 27, 2000.

(12) Subsection (3) applies to the 1998 and subsequent taxation years.

(13) Subsection 7(1.5) of the Act, as enacted by subsection (5), applies to dispositions and exchanges of securities by a taxpayer that occur after February 27, 2000.

(14) Subsection 7(1.6) of the Act, as enacted by subsection (5), applies after 1992.

(15) Subsection 7(1.7) of the Act, as enacted by subsection (5), applies to amounts received on or after ANNOUNCEMENT DATE, other than amounts received on or after that day

(a) pursuant to an agreement in writing made before that day in settlement of claims arising as a result of a cessation occurring before that day; or

(b) pursuant to an order or judgment issued before that day in respect of claims arising as a result of a cessation occurring before that day.

(16) Subsection (8) applies after 1997, except that

(a) it does not apply to a right under an agreement to which subsection 7(7) of the Act, as enacted by subsection 3(7) of chapter 22 of the Statutes of Canada, 1999, does not (except for the purpose of applying paragraph 7(3)(b) of the Act) apply; and

(b) before 2000, the portion of subsection 7(7) of the Act, as enacted by subsection (8), before the definition "qualifying person" shall be read as follows:

(7) The definitions in this subsection apply in this section and in paragraph 110(1)(d) and subsections 110(1.5) and (1.6).

3. (1) Paragraph 8(1)(a) of the Act is repealed.

(2) Paragraph 8(1)(c) of the Act is replaced by the following:

Clergy
residence

(c) where, in the year, the taxpayer

(i) is a member of the clergy or of a religious order or a regular minister of a religious denomination, and

(ii) is

(A) in charge of a diocese, parish or congregation,

(B) ministering to a diocese, parish or congregation, or

(C) engaged exclusively in full-time administrative service by appointment of a religious order or religious denomination,

the amount, not exceeding the taxpayer's remuneration for the year from the office or employment, equal to

(iii) the total of all amounts including amounts in respect of utilities, included in computing the taxpayer's income for the year under section 6 in respect of the residence or other living accommodation occupied by the taxpayer in the course of, or because of, the taxpayer's office or employment as such a member or minister so in charge of or ministering to a diocese, parish or congregation, or so engaged in such administrative service, or

(iv) rent and utilities paid by the taxpayer for the taxpayer's principal place of residence (or other principal living accommodation), ordinarily occupied during the year by the taxpayer, or the fair rental value of such a residence (or

other living accommodation), including utilities, owned by the taxpayer or the taxpayer's spouse or common-law partner, not exceeding the lesser of

(A) the greater of

(I) \$1,000 multiplied by the number of months (to a maximum of ten) in the year, during which the taxpayer is a person described in subparagraphs (i) and (ii), and

(II) one-third of the taxpayer's remuneration for the year from the office or employment, and

(B) the amount, if any, by which

(I) the rent paid or the fair rental value of the residence or living accommodation, including utilities

exceeds

(II) the total of all amounts each of which is an amount deducted, in connection with the same accommodation or residence, in computing an individual's income for the year from an office or employment or from a business (other than an amount deducted under this paragraph by the taxpayer), to the extent that the amount can reasonably be considered to relate to the period, or a portion of the period, in respect of which an amount is claimed by the taxpayer under this paragraph;

(3) Subsection 8(10) of the Act is replaced by the following:

Certificate of
employer

(10) An amount otherwise deductible for a taxation year under paragraph (1)(c), (f), (h) or (h.1) or subparagraph (1)(i)(ii) or (iii) by a taxpayer shall not be deducted unless a prescribed form, signed by the taxpayer's employer certifying that the conditions set out in the applicable provision were met in the year in respect of the taxpayer, is filed with the taxpayer's return of income for the year.

(4) Subsections (1) and (3) apply to the 1998 and subsequent taxation years except that in its application to the 1998 to 2000 taxation years the reference to "paragraph (1)(c), (f)" in subsection 8(10), as enacted by subsection (3), shall be read as a reference to "paragraph (1)(f)".

(5) Subsection (2) applies to the 2001 and subsequent taxation years.

4. (1) Section 10 of the Act is amended by adding the following after subsection (11):

Removing
property from
inventory

(12) If at any time a non-resident taxpayer ceases to use, in connection with a business or part of a business carried on by the taxpayer in Canada immediately before that time, a property that was immediately before that time described in the inventory of the business or the part of the business, as the case may be, (other than a property that was disposed of by the taxpayer at that time), the taxpayer is deemed

(a) to have disposed of the property immediately before that time for proceeds of disposition equal to its fair market value at that time; and

(b) to have received those proceeds immediately before that time in the course of carrying on the business or the part of the business, as the case may be.

Adding property
to inventory

(13) If at any time a property becomes included in the inventory of a business or part of a business that a non-resident taxpayer carries on in Canada after that time (other than a property that was, otherwise than because of this subsection, acquired by the taxpayer at that time), the taxpayer is deemed to have acquired the property at that time at a cost equal to its fair market value at that time.

Work in
progress

(14) For the purposes of subsections (12) and (13), property that is included in the inventory of a business includes property that would be so included if paragraph 34(a) did not apply.

(2) Subsection (1) applies after December 23, 1998.

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

Interest

(c) subject to subsections (3) and (4.1), any amount received or receivable by the taxpayer in the year (depending on the method regularly followed by the taxpayer in computing the taxpayer's income) as, on account of, in lieu of payment of or in satisfaction of, interest to the extent that the interest was not included in computing the taxpayer's income for a preceding taxation year;

(2) Paragraph 12(1)(i.1) of the Act is replaced by the following:

Bad debts
recovered

(i.1) where an amount is received in the year on account of a debt in respect of which a deduction for bad debts was made under subsection 20(4.2) in computing the taxpayer's income for a preceding taxation year, the amount determined by the formula

$$A \times B/C$$

where

A is 1/2 of the amount so received;

B is the amount that was deducted under subsection 20(4.2) in respect of the debt; and

C is the total of the amount that was so deducted under subsection 20(4.2) and the amount that was deemed by that subsection or subsection 20(4.3) to be an allowable capital loss in respect of the debt;

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

Foreign oil and
gas production
taxes

(o.1) the total of all amounts, each of which is the taxpayer's production tax amount for a foreign oil and gas business of the taxpayer for the year, within the meaning assigned by subsection 126(7);

(4) Subsection (1) applies to taxation years that end after September 1997.

(5) Subsection (2) applies in respect of taxation years that end after February 27, 2000 except that, for taxation years that ended after February 27, 2000 and before October 18, 2000, the reference

to the fraction "1/2" in the description of A in paragraph 12(1)(i.1) of the Act, as enacted by subsection (2), shall be read as a reference to the fraction "2/3".

(6) Subsection (3) applies to taxation years of a taxpayer that begin after the earlier of

(a) December 31, 1999; and

(b) where, for the purposes of subsection 117(26), a date is designated in writing by the taxpayer and the designation is filed with the Minister of National Revenue on or before the taxpayer's filing-due date for the taxpayer's taxation year that includes the day on which this Act receives royal assent, the later of

(i) the date so designated, and

(ii) December 31, 1994.

6. (1) Clause 13(7)(b)(ii)(B) of the Act is amended by replacing the reference to the fraction "3/4" with a reference to the fraction "1/2" and by replacing the reference to the expression "4/3 of" with a reference to the word "twice".

(2) Clause 13(7)(d)(i)(B) of the Act is amended by replacing the reference to the fraction "3/4" with a reference to the fraction "1/2" and by replacing the reference to the expression "4/3 of" with a reference to the word "twice".

(3) Paragraph 13(7)(e) of the Act is amended by replacing the references to the fraction "3/4" with references to the fraction "1/2" and by replacing the reference to the expression "4/3 of" with a reference to the word "twice".

(4) Subparagraph 13(7)(f)(ii) of the Act is amended by replacing the reference to the fraction "3/4" with a reference to the fraction "1/2".

(5) The definition "disposition of property" in subsection 13(21) of the Act is repealed.

(6) Subparagraph 13(21.1)(b)(ii) of the Act is amended by replacing the reference to the fraction "1/4" with a reference to the fraction "1/2".

(7) Paragraph 13(21.2)(a) of the Act is replaced by the following:

(a) a person or partnership (in this subsection referred to as the "transferor") disposes at a particular time (otherwise than in a disposition described in any of paragraphs (c) to (g) of the definition "superficial loss" in section 54) of a depreciable property of a particular prescribed class of the transferor,

(8) Subparagraph 13(21.2)(e)(ii) of the Act is replaced by the following:

(ii) where two or more properties of a prescribed class of the transferor are disposed of at the same time, subparagraph (i) applies as if each property so disposed of had been separately disposed of in the order designated by the transferor or, if the transferor does not designate an order, in the order designated by the Minister,

(9) Section 13 of the Act is amended by adding the following after subsection (33):

Deductible
expenses

(34) Notwithstanding paragraph 1102(1)(a) of the Regulations, for taxation years that end after 1987 and before December 6, 1996, the classes of property prescribed for the purpose of paragraph 20(1)(a) are deemed to include property of a taxpayer that, if the Act were read without reference to sections 66 to 66.4, would be included in one of the classes.

(10) Subsections (1) and (2) apply to changes in use of property that occur in taxation years that end after February 27, 2000 except that, for changes in use of property that occur in a taxpayer's taxation year that includes either February 28, 2000 or October 17, 2000, or began after February 28, 2000 and ended before October 17, 2000, the references in clauses 13(7)(b)(ii)(B) and 13(7)(d)(i)(B) of the Act, as enacted by subsections (1) and (2), respectively, to the fraction "1/2" shall be read as references to the fraction in paragraph 38(a) of the Act, as enacted by subsection 22(1), that applies to the taxpayer for the year and the references to the word "twice" shall be read as references to the expression "the fraction that is the reciprocal of the fraction in paragraph 38(a), as enacted by subsection 22(1) of the *Income Tax Amendments Act, 2000*, that applies to the taxpayer for the year, multiplied by".

(11) Subsection (3) applies to acquisitions of property that occur in taxation years that end after February 27, 2000 except that, for acquisitions of property in a taxation year that includes either February 28, 2000 or October 17, 2000 or began after February 28, 2000 and ended before October 17, 2000 of a person or

partnership from whom the property was acquired, the references in paragraph 13(7)(e) of the Act, as enacted by subsection (3), to the fraction "1/2" shall be read as references to the fraction in paragraph 38(a) of the Act, as enacted by subsection 22(1), that applies to the person or partnership from whom the taxpayer acquired the property for the year in which the person or partnership disposed of the property, and the references to the word "twice" shall be read as references to the expression "the fraction that is the reciprocal of the fraction in paragraph 38(a), as enacted by subsection 22(1) of the *Income Tax Amendments Act, 2000*, that applies to the person or partnership from whom the taxpayer acquired the property for the year in which the person or partnership disposed of the property, multiplied by".

(12) Subsection (4) applies to acquisitions of property that occur in taxation years that end after February 27, 2000 except that, for acquisitions of property that occur in a taxpayer's taxation year that includes either February 28, 2000 or October 17, 2000 or began after February 28, 2000 and ended before October 17, 2000, the reference in subparagraph 13(7)(f)(ii) of the Act, as enacted by subsection (4), to the fraction "1/2" shall be read as a reference to the fraction in paragraph 38(a) of the Act, as enacted by subsection 22(1), that applies to the taxpayer for the year.

(13) Subsection (5) applies to transactions and events that occur after December 23, 1998.

(14) Subsection (6) applies to taxation years that end after February 27, 2000 except that, for a taxpayer's taxation year that includes either February 28, 2000 or October 17, 2000 or began after February 28, 2000 and ended before October 17, 2000, the reference in subparagraph 13(21.1)(b)(ii) of the Act, as enacted by subsection (6), to the fraction "1/2" shall be read as a reference to the fraction determined when the fraction in paragraph 38(a) of the Act, as enacted by subsection 22(1), that applies to the taxpayer for the year is subtracted from 1.

(15) Subsections (7) and (8) apply after November 1999 except that, if an individual (other than a trust) so elects in writing and files the election with the Minister of National Revenue on or before the individual's filing-due date for the taxation year in which this Act receives royal assent, subsection (7) does not apply in respect of the disposition of a property by the individual before July 2000

(a) to a person who was obliged on November 30, 1999 to acquire the property pursuant to the terms of an agreement in writing made on or before that day; or

(b) in a transaction, or as part of a series of transactions, the arrangements for which, evidenced in writing, were substantially advanced before December 1999, other than a transaction or series of transactions a main purpose of which can reasonably be considered to have been to enable an unrelated person to obtain the benefit of

(i) any deduction in computing income, taxable income, taxable income earned in Canada or tax payable under the Act, or

(ii) any balance of undeducted outlays, expenses or other amounts.

7. (1) Subsection 14(1) of the Act is replaced by the following:

Eligible
capital
property -
inclusion in
income from
business

14. (1) Where, at the end of a taxation year, the total of all amounts each of which is an amount determined, in respect of a business of a taxpayer, for E in the definition "cumulative eligible capital" in subsection (5) (in this section referred to as an "eligible capital amount") or for F in that definition exceeds the total of all amounts determined for A to D in that definition in respect of the business (which excess is in this subsection referred to as "the excess"), there shall be included in computing the taxpayer's income from the business for the year the total of

(a) the amount, if any, that is the lesser of

(i) the excess, and

(ii) the amount determined for F in the definition "cumulative eligible capital" in subsection (5) at the end of the year in respect of the business, and

(b) the amount, if any, determined by the formula

$$\frac{2}{3} \times (A - B - C - D)$$

where

A is the excess,

- B is the amount determined for F in the definition "cumulative eligible capital" in subsection (5) at the end of the year in respect of the business,
- C is 1/2 of the amount determined for Q in the definition "cumulative eligible capital" in subsection (5) at the end of the year in respect of the business, and
- D is the amount claimed by the taxpayer, not exceeding the taxpayer's exempt gains balance for the year in respect of the business.

Election re
capital gain

(1.01) Where, at any time in a taxation year, a taxpayer disposes of an eligible capital property (other than goodwill) in respect of a business, the cost of the property to the taxpayer can be determined, the proceeds of the disposition (in this subsection referred to as the "actual proceeds") exceed that cost, the taxpayer's exempt gains balance in respect of the business for the year is nil and the taxpayer so elects under this subsection in the taxpayer's return of income for the year,

(a) for the purposes of subsection (5), the proceeds of disposition of the property are deemed to be equal to that cost;

(b) the taxpayer is deemed to have disposed at that time of a capital property that had at that time an adjusted cost base to the taxpayer equal to that cost, for proceeds of disposition equal to the actual proceeds; and

(c) where the eligible capital property is at that time a qualified farm property (within the meaning assigned by subsection 110.6(1)) of the taxpayer, the capital property deemed by paragraph (b) to have been disposed of by the taxpayer is deemed to have been at that time a qualified farm property of the taxpayer.

(2) The portion of subsection 14(1.1) of the Act before the description of B in paragraph (b) is replaced by the following:

Deemed taxable
capital gain

(1.1) For the purposes of section 110.6 and paragraph 3(b) as it applies for the purposes of that section, an amount included under paragraph (1)(b) in computing a taxpayer's income for a particular taxation year from a business is deemed to be a taxable capital

gain of the taxpayer for the year from the disposition in the year of qualified farm property to the extent of the lesser of

- (a) the amount included under paragraph (1)(b) in computing the taxpayer's income for the particular year from the business, and
- (b) the amount determined by the formula

$$A - B$$

where

A is the amount by which the total of

(i) 3/4 of the total of all amounts each of which is the taxpayer's proceeds from a disposition in a preceding taxation year that began after 1987 and ended before February 28, 2000 of eligible capital property in respect of the business that, at the time of the disposition, was a qualified farm property (within the meaning assigned by subsection 110.6(1)) of the taxpayer,

(ii) 2/3 of the total of all amounts each of which is the taxpayer's proceeds from a disposition in the particular year or a preceding taxation year that ended after February 27, 2000 and before October 18, 2000 of eligible capital property in respect of the business that, at the time of the disposition, was a qualified farm property (within the meaning assigned by subsection 110.6(1)) of the taxpayer, and

(iii) 1/2 of the total of all amounts each of which is the taxpayer's proceeds from a disposition in the particular year or a preceding taxation year that ended after October 17, 2000 of eligible capital property in respect of the business that, at the time of the disposition, was a qualified farm property (within the meaning assigned by subsection 110.6(1)) of the taxpayer

exceeds the total of

(iv) 3/4 of the total of all amounts each of which is

(A) an eligible capital expenditure of the taxpayer in respect of the business that was made or incurred in respect of a qualified farm property disposed of by the taxpayer in a preceding taxation year that began after 1987 and ended before February 28, 2000, or

(B) an outlay or expense of the taxpayer that was not deductible in computing the taxpayer's income and that was

made or incurred for the purpose of making a disposition referred to in clause (A),

(v) 2/3 of the total of all amounts each of which is

(A) an eligible capital expenditure of the taxpayer in respect of the business that was made or incurred in respect of a qualified farm property disposed of by the taxpayer in the particular year or a preceding taxation year that ended after February 27, 2000 and before October 18, 2000, or

(B) an outlay or expense of the taxpayer that was not deductible in computing the taxpayer's income and that was made or incurred for the purpose of making a disposition referred to in clause (A), and

(vi) 1/2 of the total of all amounts each of which is

(A) an eligible capital expenditure of the taxpayer in respect of the business that was made or incurred in respect of a qualified farm property disposed of by the taxpayer in the particular year or a preceding taxation year that ended after October 17, 2000, or

(B) an outlay or expense of the taxpayer that was not deductible in computing the taxpayer's income and that was made or incurred for the purpose of making a disposition referred to in clause (A), and

(3) The portion of subsection 14(3) of the Act before paragraph (c) is replaced by the following:

Acquisition of
eligible
capital
property

(3) Notwithstanding any other provision of this Act, where at any particular time a person or partnership (in this subsection referred to as the "taxpayer") has, directly or indirectly, in any manner whatever, acquired an eligible capital property in respect of a business from a person or partnership with which the taxpayer did not deal at arm's length (in this subsection referred to as the "transferor") and the property was an eligible capital property of the transferor (other than property acquired by the taxpayer as a consequence of the death of the transferor), the eligible capital expenditure of the taxpayer in respect of the business is, in respect of that acquisition, deemed to be equal to 4/3 of the amount, if any, by which

(a) the amount determined for E in the definition "cumulative eligible capital" in subsection (5) in respect of the disposition of the property by the transferor

exceeds the total of

(b) the total of all amounts that can reasonably be considered to have been claimed as deductions under section 110.6 for taxation years that ended before February 28, 2000 by any person with whom the taxpayer was not dealing at arm's length in respect of the disposition of the property by the transferor, or any other disposition of the property before the particular time,

(b.1) $\frac{9}{8}$ of the total of all amounts that can reasonably be considered to have been claimed as deductions under section 110.6 for taxation years that ended after February 27, 2000 and before October 18, 2000 by any person with whom the taxpayer was not dealing at arm's length in respect of the disposition of the property by the transferor, or any other disposition of the property before the particular time, and

(b.2) $\frac{3}{2}$ of the total of all amounts that can reasonably be considered to have been claimed as deductions under section 110.6 for taxation years that end after October 17, 2000 by any person with whom the taxpayer was not dealing at arm's length in respect of the disposition of the property by the transferor, or any other disposition of the property before the particular time,

except that, where the taxpayer disposes of the property after the particular time, the amount of the eligible capital expenditure deemed by this subsection to be made by the taxpayer in respect of the property shall be determined at any time after the disposition as if the total of the amounts determined under paragraphs (b), (b.1) and (b.2) in respect of the disposition were the lesser of

(4) The description of B in the definition "cumulative eligible capital" in subsection 14(5) of the Act is replaced by the following:

B is the total of

(a) $\frac{3}{2}$ of all amounts included under paragraph (1)(b) in computing the taxpayer's income from the business for taxation years that ended before that time and after October 17, 2000,

(b) $\frac{9}{8}$ of all amounts included under paragraph (1)(b) in computing the taxpayer's income from the business for taxation years that ended

(i) before that time, and

(ii) after February 27, 2000 and before October 18, 2000,

(c) all amounts included under paragraph (1)(b) in computing the taxpayer's income from the business for taxation years that ended

(i) before the earlier of that time and February 28, 2000, and

(ii) after the taxpayer's adjustment time,

(d) all amounts each of which is the amount that would have been included under subparagraph (1)(a)(v) (as that subparagraph applied for taxation years that ended before February 28, 2000) in computing the taxpayer's income from the business, if the amount determined for D in that subparagraph for the year were nil, for taxation years that ended

(i) before the earlier of that time and February 28, 2000, and

(ii) after February 22, 1994, and

(e) all taxable capital gains included, because of the application of subparagraph (1)(a)(v) (as that subparagraph applied for taxation years that ended before February 28, 2000) to the taxpayer in respect of the business, in computing the taxpayer's income for taxation years that began before February 23, 1994,

(5) The description of R in the definition "cumulative eligible capital" in subsection 14(5) of the Act is replaced by the following:

R is the total of all amounts included, in computing the taxpayer's income from the business for taxation years that ended before that time and after the taxpayer's adjustment time, under subparagraph (1)(a)(iv) in respect of taxation years that ended before February 28, 2000 and under paragraph (1)(a) in respect of taxation years that end after February 27, 2000;

(6) The description of B in the definition "exempt gains balance" in subsection 14(5) of the Act is replaced by the following:

B is the total of all amounts each of which is the amount determined for D in subparagraph (1)(a)(v) in respect of

the business for a preceding taxation year that ended before February 28, 2000 or the amount determined for D in paragraph (1)(b) for a preceding taxation year that ended after February 27, 2000.

(7) Section 14 of the Act is amended by adding the following after subsection (13):

Ceasing to use
property in
Canadian
business

(14) If at a particular time a non-resident taxpayer ceases to use, in connection with a business or part of a business carried on by the taxpayer in Canada immediately before the particular time, a property that was immediately before the particular time eligible capital property of the taxpayer (other than a property that was disposed of by the taxpayer at the particular time), the taxpayer is deemed to have disposed of the property immediately before the particular time for proceeds of disposition equal to the amount determined by the formula

$$A - B$$

where

A is the fair market value of the property immediately before the particular time, and

B is

(a) where at a previous time before the particular time the taxpayer ceased to use the property in connection with a business or part of a business carried on by the taxpayer outside Canada and began to use it in connection with a business or part of a business carried on by the taxpayer in Canada, the amount, if any, by which the fair market value of the property at the previous time exceeded its cost to the taxpayer at the previous time, and

(b) in any other case, nil.

Beginning to
use property in
Canadian
business

(15) If at a particular time a non-resident taxpayer ceases to use, in connection with a business or part of a business carried on

by the taxpayer outside Canada immediately before the particular time, and begins to use, in connection with a business or part of a business carried on by the taxpayer in Canada, a property that is an eligible capital property of the taxpayer, the taxpayer is deemed to have disposed of the property immediately before the particular time and to have reacquired the property at the particular time for consideration equal to the lesser of the cost to the taxpayer of the property immediately before the particular time and its fair market value immediately before the particular time.

(8) Subsections (1) to (6) apply to taxation years that end after February 27, 2000 except that, for taxation years that ended after February 27, 2000 and before October 18, 2000, the reference to the fraction "2/3" in the formula in paragraph 14(1)(b) of the Act, as enacted by subsection (1), shall be read as a reference to the fraction "8/9".

(9) Subsection (7) applies after June 27, 1999 in respect of an authorized foreign bank, and after August 8, 2000 in any other case.

8. (1) Section 17 of the Act is amended by adding the following after subsection (11):

Determination
of whether
persons related

(11.1) For the purposes of this section, in determining whether persons are related to each other at any time, any rights referred to in subparagraph 251(5)(b)(i) that exist at that time are deemed not to exist at that time to the extent that the exercise of those rights is prohibited at that time under a law of the country under the law of which the corporation was formed or last continued and is governed, that restricts the foreign ownership or control of the corporation.

Back-to-back
loans

(11.2) For the purposes of subsection (2) and paragraph (3)(b), where a non-resident person, or a partnership each member of which is non-resident, (in this subsection referred to as the "intermediate lender") makes a loan to a non-resident person, or a partnership each member of which is non-resident, (in this subsection referred to as the "intended borrower") because the intermediate lender received a loan from another non-resident person, or a partnership each member of which is non-resident, (in this subsection referred to as the "initial lender"), the loan that

was made by the intermediate lender to the intended borrower is deemed to have been made by the initial lender (and not by the intermediate lender) to the intended borrower (to the extent of the lesser of the amount of the loan made by the initial lender to the intermediate lender and the amount of the loan made by the intermediate lender to the intended borrower) under the same terms and conditions and at the same time as it was made by the intermediate lender.

Determination
of whether
persons related

(11.3) For the purpose of applying paragraph (3)(b) in respect of a corporation resident in Canada described in paragraph (2)(b), in determining whether persons described in subparagraph (3)(b)(i) are related to each other at any time, any rights referred to in paragraph 251(5)(b) that otherwise exist at that time are deemed not to exist at that time where, if the rights were exercised immediately before that time,

(a) all of those persons would at that time be controlled foreign affiliates of the corporation resident in Canada; and

(b) because of subsection (8), subsection (1) would not apply to the corporation resident in Canada in respect of the amount that would, but for this subsection, have been deemed to have been owing at that time to the corporation resident in Canada by the non-resident person described in subparagraph (3)(b)(i).

(2) The definition "exempt loan or transfer" in subsection 17(15) of the Act is replaced by the following:

"exempt loan or
transfer"
« *prêt ou
transfert de
biens exclu* »

"exempt loan or transfer" means

(a) a loan made by a corporation resident in Canada where the interest rate charged on the loan is not less than the interest rate that a lender and a borrower would have been willing to agree to if they were dealing at arm's length with each other at the time the loan was made;

(b) a transfer of property (other than a transfer of property made for the purpose of acquiring shares of the capital stock of a foreign affiliate of a corporation or a foreign affiliate

of a person resident in Canada with whom the corporation was not dealing at arm's length) or payment of an amount owing by a corporation resident in Canada pursuant to an agreement made on terms and conditions that persons who were dealing at arm's length at the time the agreement was entered into would have been willing to agree to;

(c) a dividend paid by a corporation resident in Canada on shares of a class of its capital stock; and

(d) a payment made by a corporation resident in Canada on a reduction of the paid-up capital in respect of shares of a class of its capital stock (not exceeding the total amount of the reduction).

(3) Subsections (1) and (2) apply to taxation years that begin after February 23, 1998.

9. (1) Subsection 18(1) of the Act is amended by striking out the word "and" at the end of paragraph (t), by adding the word "and" at the end of paragraph (u) and by adding the following after paragraph (u):

Interest -
authorized
foreign bank

(v) where the taxpayer is an authorized foreign bank, an amount in respect of interest that would otherwise be deductible in computing the taxpayer's income from a business carried on in Canada, except as provided in section 20.2.

(2) Paragraph 18(3.1)(b) of the Act is replaced by the following:

(b) the amount of such an outlay or expense shall, to the extent that it would otherwise be deductible in computing the taxpayer's income for the year, be included in computing the cost or capital cost, as the case may be, of the building to the taxpayer, to the person with whom the taxpayer does not deal at arm's length, to the corporation of which the taxpayer is a specified shareholder or to the partnership of which the taxpayer's share of any income or loss is 10% or more, as the case may be.

(3) Paragraph 18(4)(a) of the Act is replaced by the following:

(a) the amount, if any, by which

(i) the average of all amounts each of which is, in respect of a calendar month that ends in the year, the greatest total

amount at any time in the month of the corporation's outstanding debts to specified non-residents,

exceeds

(ii) two times the total of

(A) the retained earnings of the corporation at the beginning of the year, except to the extent that those earnings include retained earnings of any other corporation,

(B) the average of all amounts each of which is the corporation's contributed surplus at the beginning of a calendar month that ends in the year, to the extent that it was contributed by a specified non-resident shareholder of the corporation, and

(C) the average of all amounts each of which is the corporation's paid-up capital at the beginning of a calendar month that ends in the year, excluding the paid-up capital in respect of shares of any class of the capital stock of the corporation owned by a person other than a specified non-resident shareholder of the corporation,

(4) Paragraph (b) of the definition "outstanding debts to specified non-residents" in subsection 18(5) of the Act is replaced by the following:

(b) an amount outstanding at the particular time as or on account of a debt or other obligation to pay an amount to

(i) a non-resident insurance corporation to the extent that the obligation was, for the non-resident insurance corporation's taxation year that included the particular time, designated insurance property in respect of an insurance business carried on in Canada through a permanent establishment as defined by regulation, or

(ii) an authorized foreign bank, if the bank uses or holds the obligation at the particular time in its Canadian banking business;

(5) Subsection 18(8) of the Act is repealed.

(6) Subparagraph 18(9)(a)(ii) of the Act is replaced by the following:

(ii) as, on account of, in lieu of payment of or in satisfaction of, interest, taxes (other than taxes imposed on an insurer in respect of insurance premiums of a non-

cancellable or guaranteed renewable accident and sickness insurance policy, or a life insurance policy other than a group term life insurance policy that provides coverage for a period of 12 months or less), rent or royalties in respect of a period that is after the end of the year, or

(7) Section 18 of the Act is amended by adding the following after subsection (9.01):

Application of
subsection (9)
to insurers

(9.02) For the purpose of subsection (9), an outlay or expense made or incurred by an insurer on account of the acquisition of an insurance policy (other than a non-cancellable or guaranteed renewable accident and sickness insurance policy or a life insurance policy other than a group term life insurance policy that provides coverage for a period of 12 months or less) is deemed to be an expense incurred as consideration for services rendered consistently throughout the period of coverage of the policy.

(8) Subsections (1) and (4) apply after June 27, 1999.

(9) Subsection (2) applies to outlays and expenses made or incurred after December 21, 2000.

(10) Subsections (3) and (5) apply to taxation years that begin after 2000.

(11) Subsections (6) and (7) apply to taxation years that begin after 1999 except that, where a taxpayer so elects in writing and files the election with the Minister of National Revenue on or before the taxpayer's filing-due date for the taxpayer's taxation year in which this Act receives royal assent, they apply to taxation years that end after 1997.

10. (1) Subsection 18.1(15) of the Act is replaced by the following:

Non-
applicability
of section 18.1

(15) Subject to subsections (1) and (14), this section does not apply to a taxpayer's matchable expenditure in respect of a right to receive production if

(a) no portion of the expenditure can reasonably be considered to have been paid to another taxpayer, or to a person with whom the

other taxpayer does not deal at arm's length, to acquire the right from the other taxpayer and

(i) the taxpayer's expenditure cannot reasonably be considered to relate to a tax shelter or tax shelter investment (within the meaning assigned by subsection 143.2(1)) and none of the main purposes for making the expenditure is that the taxpayer, or a person with whom the taxpayer does not deal at arm's length, obtain a tax benefit, or

(ii) before the end of the taxation year in which the expenditure is made, the total of all amounts each of which is included in computing the taxpayer's income for the year (other than any portion of such an amount that is the subject of a reserve claimed by the taxpayer for the year under this Act) in respect of the right to receive production to which the matchable expenditure relates exceeds 80% of the expenditure; or

(b) the expenditure is in respect of commissions or other expenses related to the issuance of an insurance policy for which all or a portion of a risk has been ceded to the taxpayer (in this paragraph referred to as the "reinsurer") and both the reinsurer and the person to whom the expenditure is made or is to be made are insurers subject to the supervision of

(i) the Superintendent of Financial Institutions, in the case of an insurer that is required by law to report to the Superintendent of Financial Institutions, or

(ii) in any other case, the Superintendent of Insurance or other similar officer or authority of the province under whose laws the insurer is incorporated.

(2) Subsection (1) applies to expenditures made after November 17, 1996.

11. (1) The portion of subsection 19(1) of the Act before subparagraph (b)(i) is replaced by the following:

Limitation re
advertising
expense -
newspapers

19. (1) In computing income, no deduction shall be made in respect of an otherwise deductible outlay or expense of a taxpayer for advertising space in an issue of a newspaper for an advertisement directed primarily to a market in Canada unless

(a) the issue is a Canadian issue of a Canadian newspaper; or

(b) the issue is an issue of a newspaper that would be a Canadian issue of a Canadian newspaper except that

(2) The definition "substantially the same" in subsection 19(5) of the Act is repealed.

(3) The definition "Canadian issue" in subsection 19(5) of the Act is replaced by the following:

"Canadian
issue"
« *édition
canadienne* »

"Canadian issue" of a newspaper means an issue, including a special issue,

(a) the type of which, other than the type for advertisements or features, is set in Canada,

(b) all of which, exclusive of any comics supplement, is printed in Canada,

(c) that is edited in Canada by individuals resident in Canada, and

(d) that is published in Canada;

(4) The portion of the definition "Canadian newspaper or periodical" in subsection 19(5) of the Act before paragraph (a) is replaced by the following:

"Canadian
newspaper"
« *journal
canadien* »

"Canadian newspaper" means a newspaper the exclusive right to produce and publish issues of which is held by one or more of the following:

(5) Section 19 of the Act is amended by adding the following after subsection (5):

Interpretation

(5.1) In this section, each of the following is deemed to be a Canadian citizen:

(a) a trust or corporation described in paragraph 149(1)(o) or (o.1) formed in connection with a pension plan that exists for the benefit of individuals a majority of whom are Canadian citizens;

(b) a trust described in paragraph 149(1)(r) or (x), the annuitant in respect of which is a Canadian citizen;

(c) a mutual fund trust, within the meaning assigned by subsection 132(6), other than a mutual fund trust the majority of the units of which are held by citizens or subjects of a country other than Canada;

(d) a trust, each beneficiary of which is a person, partnership, association or society described in any of paragraphs (a) to (e) of the definition "Canadian newspaper" in subsection (5); and

(e) a person, association or society described in paragraph (c) or (d) of the definition "Canadian newspaper" in subsection (5).

(6) Subsections 19(6) to (8) of the Act are replaced by the following:

Trust property

(6) Where the right that is held by any person, partnership, association or society described in the definition "Canadian newspaper" in subsection (5) to produce and publish issues of a newspaper is held as property of a trust or estate, the newspaper is not a Canadian newspaper unless each beneficiary under the trust or estate is a person, partnership, association or society described in that definition.

Grace period

(7) A Canadian newspaper that would, but for this subsection, cease to be a Canadian newspaper, is deemed to continue to be a Canadian newspaper until the end of the 12th month that follows the month in which it would, but for this subsection, have ceased to be a Canadian newspaper.

Non-Canadian newspaper

(8) Where at any time one or more persons or partnerships that are not described in any of paragraphs (a) to (e) of the definition "Canadian newspaper" in subsection (5) have any direct or indirect influence that, if exercised, would result in control in fact of a person or partnership that holds a right to produce or publish

issues of a newspaper, the newspaper is deemed not to be a Canadian newspaper at that time.

(7) Subsections (1) to (4) and (6) apply in respect of advertisements placed in an issue dated after May 2000.

(8) Subsection (5) applies in respect of advertisements placed in an issue dated after June 1996 except that, in applying subsection 19(5.1) of the Act, as enacted by subsection (5), to advertisements placed in an issue dated after June 1996 and before June 2000, the references in that subsection 19(5.1) to "Canadian newspaper" shall be read as references to "Canadian newspaper or periodical".

12. (1) The Act is amended by adding the following after section 19:

Definitions

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

"advertisement
directed at the
Canadian
market"
« *annonce
destinée au
marché canadien*
»

"advertisement directed at the Canadian market" has the same meaning as the expression "directed at the Canadian market" in section 2 of the *Foreign Publishers Advertising Services Act* and includes a reference to that expression made by or under that Act.

"original
editorial
content"
« *contenu
rédactionnel
original* »

"original editorial content" in respect of an issue of a periodical means non-advertising content

(a) the author of which is a Canadian citizen or a permanent resident of Canada within the meaning assigned by the *Immigration Act* and, for this purpose, "author" includes a writer, a journalist, an illustrator and a photographer; or

(b) that is created for the Canadian market and has not been published in any other edition of that issue of the periodical published outside Canada.

"periodical"
« *périodique* »

"periodical" has the meaning assigned by section 2 of the *Foreign Publishers Advertising Services Act*.

Limitation re
advertising
expenses –
periodicals

(2) Subject to subsections (3) and (4), in computing income, no deduction shall be made by a taxpayer in respect of an otherwise deductible outlay or expense for advertising space in an issue of a periodical for an advertisement directed at the Canadian market.

100% deduction

(3) A taxpayer may deduct in computing income an outlay or expense of the taxpayer for advertising space in an issue of a periodical for an advertisement directed at the Canadian market if

(a) the original editorial content in the issue is 80% or more of the total non-advertising content in the issue; and

(b) the outlay or expense would, but for subsection (2), be deductible in computing the taxpayer's income.

50% deduction

(4) A taxpayer may deduct in computing income 50% of an outlay or expense of the taxpayer for advertising space in an issue of a periodical for an advertisement directed at the Canadian market if

(a) the original editorial content in the issue is less than 80% of the total non-advertising content in the issue; and

(b) the outlay or expense would, but for subsection (2), be deductible in computing the taxpayer's income.

Application

(5) For the purposes of subsections (3) and (4),

(a) the percentage that original editorial content is of total non-advertising content is the percentage that the total space

occupied by original editorial content in the issue is of the total space occupied by non-advertising content in the issue; and

(b) the Minister may obtain the advice of the Department of Canadian Heritage for the purpose of

(i) determining the result obtained under paragraph (a), and

(ii) interpreting any expression defined in this section that is defined in the *Foreign Publishers Advertising Services Act*.

Editions of
issues

(6) For the purposes of this section,

(a) where an issue of a periodical is published in several versions, each version is an edition of that issue; and

(b) where an issue of a periodical is published in only one version, that version is an edition of that issue.

(2) Subsection (1) applies in respect of advertisements placed in an issue dated after May 2000.

13. (1) Paragraph 20(1)(b) of the Act is replaced by the following:

Cumulative
eligible
capital amount

(b) such amount as the taxpayer claims in respect of a business, not exceeding 7% of the taxpayer's cumulative eligible capital in respect of the business at the end of the year except that, where the year is less than 12 months, the amount allowed as a deduction under this paragraph shall not exceed that proportion of the maximum amount otherwise allowable that the number of days in the taxation year is of 365;

(2) The portion of paragraph 20(1)(e) of the Act before subparagraph (i) is replaced by the following:

Expenses re
financing

(e) such part of an amount (other than an excluded amount) that is not otherwise deductible in computing the income of the taxpayer and that is an expense incurred in the year or a preceding taxation year

(3) The portion of paragraph 20(1)(e) of the Act after subparagraph (ii.2) and before subparagraph (iii) is replaced by the following:

(including a commission, fee, or other amount paid or payable for or on account of services rendered by a person as a salesperson, agent or dealer in securities in the course of the issuance, sale or borrowing) that is the lesser of

(4) Paragraph 20(1)(e) of the Act is amended by adding the following before subparagraph (v):

(iv.1) "excluded amount" means

(A) an amount paid or payable as or on account of the principal amount of a debt obligation or interest in respect of a debt obligation,

(B) an amount that is contingent or dependent on the use of, or production from, property, or

(C) an amount that is computed by reference to revenue, profit, cash flow, commodity price or any other similar criterion or by reference to dividends paid or payable to shareholders of any class of shares of the capital stock of a corporation,

(5) Subparagraph 20(1)(f)(ii) of the Act is amended by replacing the reference to the fraction "3/4" with a reference to the fraction "1/2".

(6) Paragraph 20(1)(z.1) of the Act is amended by replacing the reference to the fraction "3/4" with a reference to the fraction "1/2".

(7) Subparagraph 20(1)(hh)(ii) of the Act is replaced by the following:

(ii) that is, by reason of subparagraph 12(1)(x)(vi) or subsection 12(2.2), not included under paragraph 12(1)(x) in computing the taxpayer's income for the year or a preceding taxation year, where the particular amount relates to an outlay or expense (other than an outlay or expense that is in respect of the cost of property of the taxpayer or that is or would be, if amounts deductible by the taxpayer were not limited by reason of paragraph 66(4)(b), subsection 66.1(2), subparagraph 66.2(2)(a)(ii), the words "30% of" in clause 66.21(4)(a)(ii)(B), clause 66.21(4)(a)(ii)(C) or (D) or subparagraph 66.4(2)(a)(ii), deductible under section 66, 66.1, 66.2, 66.21 or 66.4) that would, if the particular amount had

not been received, have been deductible in computing the taxpayer's income for the year or a preceding taxation year;

(8) Subsection 20(4.2) of the Act is replaced by the following:

Bad debts re
eligible
capital
property

(4.2) Where, in respect of one or more dispositions of eligible capital property by a taxpayer, an amount that is described in paragraph (a) of the description of E in the definition "cumulative eligible capital" in subsection 14(5) in respect of the taxpayer is established by the taxpayer to have become a bad debt in a taxation year, there shall be deducted in computing the taxpayer's income for the year the amount determined by the formula

$$(A + B) - (C + D + E + F + G + H)$$

where

A is the lesser of

(a) 1/2 of the total of all amounts each of which is such an amount that was so established to have become a bad debt in the year or a preceding taxation year, and

(b) the amount that is

(i) where the year ended after February 27, 2000, the amount, if any, that would be the total of all amounts determined by the formula in paragraph 14(1)(b) (if that formula were read without reference to the description of D) for the year, or for a preceding taxation year that ended after February 27, 2000, and

(ii) where the year ended before February 28, 2000, nil;

B is the amount, if any, by which

(a) 3/4 of the total of all amounts each of which is such an amount that was so established to be a bad debt in the year or a preceding taxation year

exceeds the total of

(b) 3/2 of the amount by which

(i) the value of A

exceeds

(ii) the amount included in the value of A because of subparagraph (b)(i) of the description of A in respect of taxation years that ended after February 27, 2000 and before October 18, 2000, and

(c) $\frac{9}{8}$ of the amount included in the value of A because of subparagraph (b)(i) of the description of A in respect of taxation years that ended after February 27, 2000 and before October 18, 2000;

C is the total of all amounts each of which is an amount determined under subsection 14(1) or (1.1) for the year, or a preceding taxation year, that ends after October 17, 2000 and in respect of which a deduction can reasonably be considered to have been claimed under section 110.6 by the taxpayer;

D is the total of all amounts each of which is an amount determined under subsection 14(1) or (1.1) for the year, or a preceding taxation year, that ended after February 27, 2000 and before October 18, 2000 and in respect of which a deduction can reasonably be considered to have been claimed under section 110.6 by the taxpayer;

E is the total of all amounts each of which is an amount determined under subsection 14(1) or (1.1) for a preceding taxation year that ended before February 28, 2000 and in respect of which a deduction can reasonably be considered to have been claimed under section 110.6 by the taxpayer;

F is the total of

(a) $\frac{2}{3}$ of the total of all amounts each of which is the value determined in respect of the taxpayer for D in the formula in paragraph 14(1)(b) for the year, or a preceding taxation year, that ends after October 17, 2000, and

(b) $\frac{8}{9}$ of the total of all amounts each of which is the value determined in respect of the taxpayer for D in the formula in paragraph 14(1)(b) for the year, or a preceding taxation year, that ended after February 27, 2000 and before October 18, 2000;

G is the total of all amounts each of which is the value determined in respect of the taxpayer for D in the formula in subparagraph 14(1)(a)(v) (as that subparagraph applied for taxation years that ended before February 28, 2000) for a preceding taxation year; and

H is the total of all amounts deducted by the taxpayer under this subsection for preceding taxation years.

Deemed
allowable
capital loss

(4.3) Where, in respect of one or more dispositions of eligible capital property by a taxpayer, an amount that is described in paragraph (a) of the description of E in the definition "cumulative eligible capital" in subsection 14(5) in respect of the taxpayer is established by the taxpayer to have become a bad debt in a taxation year, the taxpayer is deemed to have an allowable capital loss from a disposition of capital property in the year equal to the lesser of

(a) the total of the value determined for A and $\frac{2}{3}$ of the value determined for B in the formula in subsection (4.2) in respect of the taxpayer for the year; and

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

(i) the value determined for C or paragraph (a) of the description of F in the formula in subsection (4.2) in respect of the taxpayer for the year,

(ii) $\frac{3}{4}$ of the value determined for D or paragraph (b) of the description of F in the formula in subsection (4.2) in respect of the taxpayer for the year, or

(iii) $\frac{2}{3}$ of the value determined for E or G in the formula in subsection (4.2) in respect of the taxpayer for the year.

(9) Subsection (1) applies to taxation years that begin after December 21, 2000.

(10) Subsections (2) to (4) apply to expenses incurred by a taxpayer after November 1999, other than expenses incurred pursuant to a written agreement made by the taxpayer before December 1999.

(11) Subsections (5) and (6) apply in respect of amounts that become payable after February 27, 2000 except that, for amounts that became payable after February 27, 2000 and before October 18, 2000, the reference to the fraction " $\frac{1}{2}$ " in subparagraph 20(1)(f)(ii) of the Act, as enacted by subsection (5), and in paragraph 20(1)(z.1) of the Act, as enacted by subsection (6), shall be read as a reference to the fraction " $\frac{2}{3}$ ".

(12) Subsection (7) applies to taxation years that begin after 2000.

(13) Subsection (8) applies to taxation years that end after February 27, 2000 except that, for taxation years that ended after February 27, 2000 and before October 18, 2000,

(a) the reference to the fraction "1/2" in paragraph (a) of the description of A in subsection 20(4.2) of the Act, as enacted by subsection (8), shall be read as a reference to the fraction "2/3";

(b) the reference to the fraction "3/2" in paragraph (b) of the description of B in subsection 20(4.2) of the Act, as enacted by subsection (8), shall be read as a reference to the fraction "9/8";

(c) the reference to the fraction "2/3" in paragraph 20(4.3)(a) and subparagraph 20(4.3)(b)(iii) of the Act, as enacted by subsection (8), shall be read as a reference to the fraction "8/9"; and

(d) subparagraph 20(4.3)(b)(ii) of the Act, as enacted by subsection (8), shall be read without reference to the expression "3/4 of".

14. (1) The Act is amended by adding the following after section 20.1:

Interest –
authorized
foreign bank –
interpretation

20.2 (1) The following definitions apply in this section.

"branch
advance"
« *avance de
succursale* »

"branch advance" of an authorized foreign bank means an amount allocated or provided by, or on behalf of, the bank to, or for the benefit of, its Canadian banking business under terms that were documented, before the amount was so allocated or provided, to the same extent as, and in a form similar to the form in which, the bank would ordinarily document a loan by it to a person with whom it deals at arm's length.

"branch
financial
statements"

« états
financiers de
succursale »

"branch financial statements" of an authorized foreign bank for a taxation year means the unconsolidated statements of assets and liabilities and of income and expenses for the year, in respect of its Canadian banking business,

(a) that form part of the bank's annual report for the year filed with the Superintendent of Financial Institutions as required under section 601 of the *Bank Act*, and accepted by the Superintendent, and

(b) if no filing is so required for the taxation year, that are prepared in a manner consistent with the statements in the annual report or reports so filed and accepted for the period or periods in which the taxation year falls,

except if the Minister demonstrates that the statements are not prepared in accordance with generally-accepted accounting principles in Canada as modified by any specifications applicable to the bank made by the Superintendent of Financial Institutions under subsection 308(4) of the *Bank Act* (in this definition referred to as "modified GAAP"), in which case it means the statements subject to such modifications as are required to make them comply with modified GAAP.

"calculation
period"
« période de
calcul »

"calculation period" of an authorized foreign bank for a taxation year means any one of a series of regular periods into which the year is divided in a designation by the bank in its return of income for the year or, in the absence of such a designation, by the Minister,

(a) none of which is longer than 31 days;

(b) the first of which commences at the beginning of the year and the last of which ends at the end of the year; and

(c) that are, unless the Minister otherwise agrees in writing, consistent with the calculation periods designated for the bank's preceding taxation year.

Formula
elements

(2) The following descriptions apply for the purposes of the formulae in subsection (3) for any calculation period in a taxation year of an authorized foreign bank:

A is the amount of the bank's assets at the end of the period;

BA is the amount of the bank's branch advances at the end of the period;

IBA is the total of all amounts each of which is a reasonable amount on account of notional interest for the period, in respect of a branch advance, that would be deductible in computing the bank's income for the year if it were interest payable by, and the advance were indebtedness of, the bank to another person and if this Act were read without reference to paragraph 18(1)(v) and this section;

IL is the total of all amounts each of which is an amount on account of interest for the period in respect of a liability of the bank to another person or partnership that would be deductible in computing the bank's income for the year if this Act were read without reference to paragraph 18(1)(v) and this section; and

L is the amount of the bank's liabilities to other persons and partnerships at the end of the period.

Interest
deduction

(3) In computing the income of an authorized foreign bank from its Canadian banking business for a taxation year, there may be deducted on account of interest for each calculation period of the bank for the year,

(a) where the total amount at the end of the period of its liabilities to other persons and partnerships and branch advances is 95% or more of the amount of its assets at that time, an amount not exceeding

(i) if the amount of liabilities to other persons and partnerships at that time is less than 95% of the amount of its assets at that time, the amount determined by the formula

$$IL + IBA \times (0.95 \times A - L) / BA$$

and

(ii) if the amount of those liabilities at that time is greater than or equal to 95% of the amount of its assets at that time, the amount determined by the formula

$$IL \times (0.95 \times A) / L$$

and

(b) in any other case, the total of

(i) the amount determined by the formula

$$IL + IBA$$

and

(ii) the product of

(A) the amount claimed by the bank, in its return of income for the year, not exceeding the amount determined by the formula

$$(0.95 \times A) - (L + BA)$$

and

(B) the average, based on daily observations, of the Bank of Canada bank rate for the period.

Branch amounts

(4) Only amounts that are in respect of an authorized foreign bank's Canadian banking business, and that are recorded in the books of account of the business in a manner consistent with the manner in which they are required to be treated for the purposes of the branch financial statements, shall be used to determine

(a) the amounts in subsection (2); and

(b) the amounts in subsection (3) of an authorized foreign bank's assets, liabilities to other persons and partnerships, and branch advances.

Notional interest

(5) For the purposes of the description of IBA in subsection (2), a reasonable amount on account of notional interest for a calculation period in respect of a branch advance is the amount that would be payable on account of interest for the period by a

notional borrower, having regard to the duration of the advance, the currency in which repayment is required and all other terms, as adjusted by paragraph (c), of the advance, if

(a) the borrower were a person that dealt at arm's length with the bank, that carried on the bank's Canadian banking business and that had the same credit-worthiness and borrowing capacity as the bank;

(b) the advance were a loan by the bank to the borrower; and

(c) any of the terms of the advance (excluding the rate of interest, but including the structure of the interest calculation, such as whether the rate is fixed or floating and the choice of any reference rate referred to) that are not terms that would be made between the bank as lender and the borrower, having regard to all the circumstances, including the nature of the Canadian banking business, the use of the advanced funds in the business and normal risk management practices for banks, were instead terms that would be agreed to by the bank and the borrower.

Weak currency
debt –
interpretation

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

"exchange date"
« *date de*
l'échange »

"exchange date" in respect of a weak currency debt of a taxpayer means, if the debt is incurred or assumed by the taxpayer

(a) in respect of borrowed money that is denominated in the final currency, the day that the debt is incurred or assumed by the taxpayer; and

(b) in respect of borrowed money that is not denominated in the final currency, or in respect of the acquisition of property, the day on which the taxpayer uses the borrowed money or the acquired property, directly or indirectly, to acquire funds that are, or to settle an obligation that is, denominated in the final currency.

"hedge"
« *opération de*
couverture »

"hedge" in respect of a weak currency debt owing by a taxpayer means any agreement made by the taxpayer

(a) that can reasonably be regarded as having been made by the taxpayer primarily to reduce the taxpayer's risk, with respect to payments of principal or interest in respect of the debt, of fluctuations in the value of the weak currency; and

(b) that is identified by the taxpayer as a hedge in respect of the debt in a designation in prescribed form filed with the Minister on or before the 30th day after the day the taxpayer enters into the agreement.

"weak currency
debt"
« dette en
devise faible »

"weak currency debt" of a taxpayer means a particular debt in a foreign currency (in this section referred to as the "weak currency"), incurred or assumed by the taxpayer at a particular time after February 27, 2000, in respect of a borrowing of money or an acquisition of property,

(a) where

(i) the borrowed money is denominated in a currency (in this section referred to as the "final currency") other than the weak currency, is used for the purpose of earning income from a business or property and is not used to acquire funds in a currency other than the final currency,

(ii) the borrowed money or the acquired property is used, directly or indirectly, to acquire funds that are denominated in a currency (in this section referred to as the "final currency") other than the weak currency, that are used for the purpose of earning income from a business or property and that are not used to acquire funds in a currency other than the final currency,

(iii) the borrowed money or the acquired property is used, directly or indirectly, to settle an obligation that is denominated in a currency (in this section referred to as the "final currency") other than the weak currency, that is incurred or assumed for the purpose of earning income from a business or property and that is not incurred or assumed to acquire funds in a currency other than the final currency, or

(iv) the borrowed money or the acquired property is used, directly or indirectly, to settle another weak currency debt

in respect of which the final currency (which is deemed to be the final currency in respect of the particular debt) is a currency other than the currency of the particular debt;

(b) where the amount of the particular debt (together with any other debt that would, but for this paragraph, be a weak currency debt, and that can reasonably be regarded as having been incurred or assumed by the taxpayer as part of a series of transactions that includes the incurring or assumption of the particular debt) exceeds \$500,000; and

(c) where the rate at which interest is payable in the weak currency in respect of the particular debt exceeds by more than two percentage points the rate at which interest would have been payable in the final currency if at the particular time the taxpayer had instead incurred or assumed an equivalent amount of debt in the final currency on the same terms (other than the rate of interest), with such modifications as the difference in currency requires.

Interest and gain

(2) Notwithstanding any other provision of this Act, the following rules apply in respect of a weak currency debt of a taxpayer (other than a corporation described in one or more of paragraphs (a), (b), (c) and (e) of the definition "specified financial institution" in subsection 248(1)):

(a) no deduction on account of interest that accrues on the debt after the day that is the later of June 30, 2000 and the exchange date shall exceed the amount of interest that would, if at the time of incurring or assuming the debt the taxpayer had instead incurred or assumed an equivalent amount of debt, the principal and interest in respect of which were denominated in the final currency, on the same terms (other than the rate of interest and with such other modifications as the difference in currency requires), have accrued on the equivalent debt after that day;

(b) the amount, if any, of the taxpayer's gain or loss (in this section referred to as a "foreign exchange gain or loss") for a taxation year on the settlement or extinguishment of the debt that arises because of the fluctuation in the value of any currency shall be included or deducted, as the case may be, in computing the taxpayer's income for the year from the business or the property to which the debt relates; and

(c) the amount of any interest on the debt that was, because of this subsection, not deductible is deemed, for the purpose of computing the taxpayer's foreign exchange gain or loss on the

settlement or extinguishment of the debt, to be an amount paid by the taxpayer to settle or extinguish the debt.

Hedges

(3) In applying subsection (2) in circumstances where a taxpayer has entered into a hedge in respect of a weak currency debt, the amount paid or payable in the weak currency for a taxation year on account of interest on the debt, or paid in the weak currency in the year on account of the debt's principal, shall be decreased by the amount of any foreign exchange gain, or increased by the amount of any foreign exchange loss, on the hedge in respect of the amount so paid or payable.

Repayment of principal

(4) If the amount (expressed in the weak currency) outstanding on account of principal in respect of a weak currency debt is reduced before maturity (whether by repayment or otherwise), the amount (expressed in the weak currency) of the reduction is deemed, except for the purposes of determining the rate of interest that would have been charged on an equivalent loan in the final currency and applying paragraph (b) of the definition "weak currency debt" in subsection (1), to have been a separate debt from the time the debt was incurred or assumed by the taxpayer.

(2) Section 20.2, as enacted by subsection (1), applies after June 27, 1999 except that in its application to amounts allocated or provided before the day that is 14 days after August 8, 2000, the definition "branch advance" in subsection 20.2(1), as enacted by subsection (1), shall be read as follows:

"branch advance" of an authorized foreign bank at a particular time means an amount allocated or provided by, or on behalf of, the bank to, or for the benefit of, its Canadian banking business under terms that were documented, on or before December 31, 2000, to the same extent as, and in a form similar to the form in which, the bank would ordinarily document a loan by it to a person with whom it deals at arm's length.

(3) Section 20.3 of the Act, as enacted by subsection (1), applies to taxation years that end after February 27, 2000.

(4) A designation described in paragraph (b) of the definition "hedge" in subsection 20.3(1) of the Act, as enacted by subsection (1), is deemed to have been filed in a timely manner if it is filed on or before the later of July 31, 2000 and the 30th day after the day the taxpayer agrees to the hedge.

15. (1) Subsection 21(2) of the Act is replaced by the following:

Borrowed money
used for
exploration or
development

(2) Where in a taxation year a taxpayer has used borrowed money for the purpose of exploration, development or the acquisition of property and the expenses incurred by the taxpayer in respect of those activities are Canadian exploration and development expenses, Canadian exploration expenses, Canadian development expenses, Canadian oil and gas property expenses, foreign resource expenses in respect of a country, or foreign exploration and development expenses, as the case may be, if the taxpayer so elects under this subsection in the taxpayer's return of income for the year,

(a) in computing the taxpayer's income for the year and for such of the three immediately preceding taxation years as the taxpayer had, paragraphs 20(1)(c), (d), (e) and (e.1) do not apply to the amount or to the part of the amount specified in the taxpayer's election that, but for that election, would be deductible in computing the taxpayer's income (other than exempt income or income that is exempt from tax under this Part) for any such year in respect of the borrowed money used for the exploration, development or acquisition of property, as the case may be; and

(b) the amount or the part of the amount, as the case may be, described in paragraph (a) is deemed to be Canadian exploration and development expenses, Canadian exploration expenses, Canadian development expenses, Canadian oil and gas property expenses, foreign resource expenses in respect of a country, or foreign exploration and development expenses, as the case may be, incurred by the taxpayer in the year.

(2) Subsection 21(4) of the Act is amended by striking out the word "and" at the end of paragraph (a) and by replacing the portion after paragraph (a) with the following:

<[ip2n,2n]>(b) in each taxation year, if any, after that preceding taxation year and before the particular year, made an election under this subsection covering the total amount that, but for that election, would have been deductible in computing the taxpayer's income (other than exempt income or income that is exempt from tax under this Part) for each such year in respect of the borrowed money used for the exploration, development or acquisition of property, as the case may be, and

(c) so elects in the taxpayer's return of income for the particular year,

the following rules apply:

(d) paragraphs 20(1)(c), (d), (e) and (e.1) do not apply to the amount or to the part of the amount specified in the election that, but for the election, would be deductible in computing the taxpayer's income (other than exempt income or income that is exempt from tax under this Part) for the particular year in respect of the borrowed money used for the exploration, development or acquisition of property, and

(e) the amount or part of the amount, as the case may be, is deemed to be Canadian exploration and development expenses, Canadian exploration expenses, Canadian development expenses, Canadian oil and gas property expenses, foreign resource expenses in respect of a country, or foreign exploration and development expenses, as the case may be, incurred by the taxpayer in the particular year.

(3) Subsections (1) and (2) apply to taxation years that begin after 2000.

16. (1) Paragraph 24(2)(d) of the Act is replaced by the following:

(d) for the purpose of determining after that time the amount required to be included under paragraph 14(1)(b) in computing the income of the spouse, the common-law partner or the corporation in respect of any subsequent disposition of property of the business, there shall be added to the amount otherwise determined for Q in the definition "cumulative eligible capital" in subsection 14(5) the amount, if any, determined for Q in that definition in respect of the business of the individual immediately before the individual ceased to carry on business.

(2) Subsection (1) applies to taxation years that end after February 27, 2000.

17. (1) Subsection 27(2) of the Act is replaced by the following:

Presumption

(2) Notwithstanding any other provision of this Act, a prescribed federal Crown corporation and any corporation controlled by such a corporation are each deemed not to be a private corporation and paragraphs 149(1)(d) to (d.4) do not apply to those corporations.

(2) Subsection (1) applies to taxation years and fiscal periods that begin after 1998.

18. (1) Paragraphs 28(4)(a) and (b) of the Act are replaced by the following:

(a) for the year, if the taxpayer was non-resident throughout the year; and

(b) for the part of the year throughout which the taxpayer was resident in Canada, if the taxpayer was resident in Canada at any time in the year.

(2) Subsection 28(4.1) of the Act is repealed.

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

(4) Subsection (2) applies after December 23, 1998.

19. (1) The definition "foreign bank" in subsection 33.1(1) of the Act is replaced by the following:

"foreign bank"
« *banque*
étrangère »

"foreign bank" has the meaning assigned by the definition "foreign bank" in section 2 of the *Bank Act* (read without reference to paragraph (g)), except that an authorized foreign bank is not considered to be a foreign bank in respect of its Canadian banking business;

(2) Subsection (1) applies after June 27, 1999.

20. (1) The definition "mining property" in subsection 35(2) of the Act is replaced by the following:

"mining
property"
« *bien minier* »

"mining property" means

(a) a right, licence or privilege to prospect, explore, drill or mine for minerals in a mineral resource in Canada, or

(b) real property in Canada (other than depreciable property) the principal value of which depends on its mineral resource content;

(2) Subsection (1) applies to shares received after December 21, 2000.

21. (1) Subsection 37(1) of the Act is amended by adding the following after paragraph (d):

(d.1) the total of all amounts each of which is the super-allowance benefit amount (within the meaning assigned by subsection 127(9)) for the year or for a preceding taxation year in respect of the taxpayer in respect of a province,

(2) Subsection (1) applies to taxation years that begin after February 2000 except that, if a taxpayer's first taxation year that begins after February 2000 ends before 2001, subsection (1) applies to the taxpayer's taxation years that begin after 2000.

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

(a) subject to paragraphs (a.1) and (a.2), a taxpayer's taxable capital gain for a taxation year from the disposition of any property is $\frac{1}{2}$ of the taxpayer's capital gain for the year from the disposition of the property;

(2) Paragraph 38(a.1) of the Act is amended by replacing the reference to the fraction " $\frac{3}{8}$ " with a reference to the fraction " $\frac{1}{4}$ ".

(3) Section 38 of the Act is amended by adding the following after paragraph (a.1):

(a.2) a taxpayer's taxable capital gain for a taxation year from the disposition of a property is $\frac{1}{4}$ of the taxpayer's capital gain for the year from the disposition of the property where

(i) the disposition is the making of a gift to a qualified donee (other than a private foundation) of a property described, in respect of the taxpayer, in paragraph 110.1(1)(d) or in the definition "total ecological gifts" in subsection 118.1(1), or

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

(4) Paragraphs 38(b) and (c) of the Act are amended by replacing the references to the fraction " $\frac{3}{4}$ " with references to the fraction " $\frac{1}{2}$ ".

(5) Subsections (1) and (4) apply to the 2000 and subsequent taxation years except that

(a) for a taxation year of a taxpayer that ended before February 28, 2000, the references to the fraction " $\frac{1}{2}$ " in paragraph 38(a)

of the Act, as enacted by subsection (1), and in paragraphs 38(b) and (c) of the Act, as enacted by subsection (4), shall be read as references to the fraction "3/4",

(b) for a taxpayer's taxation year that began after February 28, 2000 and ended before October 17, 2000, the references to the fraction "1/2" in paragraph 38(a) of the Act as enacted by subsection (1) and in paragraphs 38(b) and (c) of the Act, as enacted by subsection (4), shall be read as references to the fraction "2/3",

(c) for a taxation year of a taxpayer that includes February 28, 2000 but does not include October 18, 2000, the references to the fraction "1/2" in paragraph 38(a) of the Act, as enacted by subsection (1), and in paragraphs 38(b) and (c) of the Act, as enacted by subsection (4), shall be read as references to the fraction that applies to the taxpayer for that year, and for this purpose,

(i) where the amount of the taxpayer's net capital gains from dispositions of property in the period that began at the beginning of the year and ended at the end of February 27, 2000 (in this paragraph referred to as the "first period") exceeds the amount of the taxpayer's net capital losses from dispositions of property in the period that begins at the beginning of February 28, 2000 and ends at the end of the year (in this paragraph referred to as the "second period"), the fraction that applies to the taxpayer for the year is 3/4,

(ii) where the amount of the taxpayer's net capital losses from dispositions of property in the first period exceeds the amount of the taxpayer's net capital gains from dispositions of property in the second period, the fraction that applies to the taxpayer for the year is 3/4,

(iii) where the amount of the taxpayer's net capital gains from dispositions of property in the first period is less than the amount of the taxpayer's net capital losses from dispositions of property in the second period, the fraction that applies to the taxpayer for the year is 2/3,

(iv) where the amount of the taxpayer's net capital losses from dispositions of property in the first period is less than the amount of the taxpayer's net capital gains from dispositions of property in the second period, the fraction that applies to the taxpayer for the year is 2/3,

(v) where the taxpayer has only net capital gains, or only net capital losses, from dispositions of property in each of the

first and second periods, the fraction that applies to the taxpayer for the year is the fraction determined by the formula

$$(3/4 \times A + 2/3 \times B)/(A + B)$$

where

A is the net capital gains or the net capital losses, as the case may be, of the taxpayer from dispositions of property in the first period, and

B is the net capital gains or the net capital losses, as the case may be, of the taxpayer from dispositions of property in the second period, and

(vi) where the net capital gains and net capital losses of the taxpayer for the year are nil, the fraction that applies to the taxpayer for the year is 2/3,

(d) for a taxation year of a taxpayer that began after February 27, 2000 and includes October 18, 2000, the references to the fraction "1/2" in paragraph 38(a) of the Act, as enacted by subsection (1), and in paragraphs 38(b) and (c) of the Act, as enacted by subsection (4), shall be read as references to the fraction that applies to the taxpayer for that year, and for this purpose,

(i) where the amount of the taxpayer's net capital gains from dispositions of property in the period that began at the beginning of the year and ended at the end of October 17, 2000 (in this paragraph referred to as the "first period") exceeds the amount of the taxpayer's net capital losses from dispositions of property in the period that begins at the beginning of October 18, 2000 and ends at the end of the year (in this paragraph referred to as the "second period"), the fraction that applies to the taxpayer for the year is 2/3,

(ii) where the amount of the taxpayer's net capital losses from dispositions of property in the first period exceeds the amount of the taxpayer's net capital gains from dispositions of property in the second period, the fraction that applies to the taxpayer for the year is 2/3,

(iii) where the amount of the taxpayer's net capital gains from dispositions of property in the first period is less than the amount of the taxpayer's net capital losses from dispositions of property in the second period, the fraction that applies to the taxpayer for the year is 1/2,

(iv) where the amount of the taxpayer's net capital losses from dispositions of property in the first period is less than the amount of the taxpayer's net capital gains from dispositions of property in the second period, the fraction that applies to the taxpayer for the year is 1/2,

(v) where the taxpayer has only net capital gains, or only net capital losses, from dispositions of property in each of the first and second periods, the fraction that applies to the taxpayer for the year is the fraction determined by the formula

$$(2/3 \times A + 1/2 \times B)/(A + B)$$

where

A is the net capital gains or the net capital losses, as the case may be, of the taxpayer from dispositions of property in the first period, and

B is the net capital gains or the net capital losses, as the case may be, of the taxpayer from dispositions of property in the second period, and

(vi) where the net capital gains and net capital losses of the taxpayer for the year are nil, the fraction that applies to the taxpayer for the year is 1/2,

(e) for a taxation year of a taxpayer that includes February 27, 2000 and October 18, 2000, the references to the fraction "1/2" in paragraph 38(a) of the Act, as enacted by subsection (1), and in paragraphs 38(b) and (c) of the Act, as enacted by subsection (4), shall be read as references to the fraction that applies to the taxpayer for that year, and for this purpose,

(i) the fraction that applies to the taxpayer for the year is 3/4, where

(A) the amount by which the amount of the taxpayer's net capital gains from dispositions of property in the period that began at the beginning of the year and ended at the end of February 27, 2000 (in this paragraph referred to as the "first period") exceeds the amount of the taxpayer's net capital losses from dispositions of property in the period that began at the beginning of February 28, 2000 and ended at the end of October 17, 2000 (in this paragraph referred to as the "second period")

exceeds

(B) the amount of the taxpayer's net capital losses from dispositions of property in the period that begins at the beginning of October 18, 2000 and ends at the end of the year (in this paragraph referred to as the "third period"),

(ii) the fraction that applies to the taxpayer for the year is $\frac{3}{4}$, where

(A) the amount by which the amount of the taxpayer's net capital losses from dispositions of property in the first period exceeds the amount of the taxpayer's net capital gains from dispositions of property in the second period

exceeds

(B) the amount of the taxpayer's net capital gains from dispositions of property in the third period,

(iii) the fraction that applies to the taxpayer for the year is $\frac{2}{3}$, where

(A) the amount by which the amount of the taxpayer's net capital gains from dispositions of property in the second period exceeds the amount of the taxpayer's net capital losses from dispositions of property in the first period

exceeds

(B) the amount of the taxpayer's net capital losses from dispositions of property in the third period,

(iv) the fraction that applies to the taxpayer for the year is $\frac{2}{3}$, where

(A) the amount by which the amount of the taxpayer's net capital losses from dispositions of property in the second period exceeds the amount of the taxpayer's net capital gains from dispositions of property in the first period

exceeds

(B) the amount of the taxpayer's net capital gains from dispositions of property in the third period,

(v) where the taxpayer has net capital gains in each of the first and second periods and the total amount of those net capital gains in those periods exceeds the amount of the taxpayer's net capital losses in the third period, the fraction that applies to the taxpayer for the year is the fraction that is determined by the formula

$$(3/4 \times A + 2/3 \times B)/(A + B)$$

where

A is the net capital gains of the taxpayer from dispositions of property in the first period, and

B is the net capital gains of the taxpayer from dispositions of property in the second period,

(vi) where the taxpayer has net capital losses in each of the first and second periods and the total amount of those net capital losses in those periods exceeds the amount of the taxpayer's net capital gains in the third period, the fraction that applies to the taxpayer for the year is the fraction that is determined by the formula

$$(3/4 \times A + 2/3 \times B)/(A + B)$$

where

A is the net capital losses of the taxpayer from dispositions of property in the first period, and

B is the net capital losses of the taxpayer from dispositions of property in the second period,

(vii) where the taxpayer has only net capital gains, or only net capital losses, from dispositions of property in each of the first, second and third periods, the fraction that applies to the taxpayer for the year is the fraction that is determined by the formula

$$(3/4 \times A + 2/3 \times B + 1/2 \times C)/(A + B + C)$$

where

A is the taxpayer's net capital gains or net capital losses, as the case may be, from dispositions of property in the first period,

B is the taxpayer's net capital gains or net capital losses, as the case may be, from dispositions of property in the second period, and

C is the taxpayer's net capital gains or net capital losses, as the case may be, from dispositions of property in the third period,

(viii) where the amount of the taxpayer's net capital gains from dispositions of property in the first period exceeds the amount of the taxpayer's net capital losses from dispositions of property in the second period and the taxpayer has net capital gains from dispositions of property in the third period, the fraction that applies to the taxpayer for the year is the fraction that is determined by the formula

$$(3/4 \times A + 1/2 \times B)/(A + B)$$

where

- A is the amount by which the taxpayer's net capital gains from dispositions of property in the first period exceeds the amount of the taxpayer's net capital losses from dispositions of property in the second period, and
- B is the taxpayer's net capital gains from dispositions of property in the third period,

(ix) where the amount of the taxpayer's net capital losses from dispositions of property in the first period exceeds the amount of the taxpayer's net capital gains from dispositions of property in the second period and the taxpayer has net capital losses from dispositions of property in the third period, the fraction that applies to the taxpayer for the year is the fraction that is determined by the formula

$$(3/4 \times A + 1/2 \times B)/(A + B)$$

where

- A is the amount by which the taxpayer's net capital losses from dispositions of property in the first period exceeds the amount of the taxpayer's net capital gains from dispositions of property in the second period, and
- B is the taxpayer's net capital losses from dispositions of property in the third period,

(x) where the amount of the taxpayer's net capital gains from dispositions of property in the second period exceeds the amount of the taxpayer's net capital losses from dispositions of property in the first period and the taxpayer has net capital gains from dispositions of property in the third period, the fraction that applies to the taxpayer for the year is the fraction that is determined by the formula

$$(2/3 \times A + 1/2 \times B)/(A + B)$$

where

- A is the amount by which the taxpayer's net capital gains from dispositions of property in the second period exceeds the amount of the taxpayer's net capital losses from dispositions of property in the first period, and
- B is the taxpayer's net capital gains from dispositions of property in the third period,

(xi) where the amount of the taxpayer's net capital losses from dispositions of property in the second period exceeds the amount of the taxpayer's net capital gains from dispositions of property in the first period and the taxpayer has net capital losses from dispositions of property in the third period, the fraction that applies to the taxpayer for the year is the fraction that is determined by the formula

$$(2/3 \times A + 1/2 \times B)/(A + B)$$

where

- A is the amount by which the taxpayer's net capital losses from dispositions of property in the second period exceeds the amount of the taxpayer's net capital gains from dispositions of property in the first period, and
- B is the taxpayer's net capital losses from dispositions of property in the third period, and

(xii) in any other case, the fraction that applies to the taxpayer for the year is 1/2, and

in determining the fraction that applies to a taxpayer under paragraphs (a) to (e) for the year, the following rules apply:

(f) the net capital gains of the taxpayer from dispositions of property in a period is the amount, if any, by which the taxpayer's capital gains from dispositions of property in the period exceed the taxpayer's capital losses from dispositions of property in the period,

(g) the net capital losses of the taxpayer from dispositions of property in a period is the amount, if any, by which the taxpayer's capital losses from dispositions of property in the period exceed the taxpayer's capital gains from dispositions of property in the period,

(h) the net amount included as a capital gain of the taxpayer for a taxation year from a disposition to which paragraph 38(a.2) of the Act, as enacted by subsection (3), applies or from a disposition to which paragraph 38(a.1) of the Act, as enacted by subsection (2), applies, is deemed to be equal to one half of the capital gain,

(i) the net amount included as a capital gain of the taxpayer for a taxation year from a disposition of property before the year because of subparagraphs 40(1)(a)(ii) and (iii) of the Act is deemed to be a capital gain of the taxpayer from a disposition of property on the first day of the year,

(j) each capital loss that is a business investment loss shall be determined without reference to subsections 39(9) and (10) of the Act,

(k) where an amount is included in computing the income of the taxpayer for the year because of subsection 80(13) of the Act in respect of a commercial obligation that is settled, the amount that would be determined under that subsection in respect of the obligation, if the value of E in the formula in that subsection were 1, is deemed to be a capital gain of the taxpayer from a disposition of property on the day on which the settlement occurs,

(l) the taxpayer's capital gains and losses from dispositions of property (other than taxable Canadian property) while the taxpayer is a non-resident are deemed to be nil,

(m) where an election is made by a taxpayer under paragraph 104(21.4)(d) of the Act, as enacted by subsection 78(23), subsection 104(21.5) of the Act, as enacted by subsection 78(23), subsection 130.1(4.4) or (4.5) of the Act, as enacted by subsection 127(4), or subsection 131(1.7) or (1.9) of the Act, as enacted by subsection 128(2), for a year, the portion of the taxpayer's net capital gains for the year that are to be treated as being in respect of capital gains realized on dispositions of property that occurred in a particular period in the year is that proportion of those net capital gains that the number of days in the particular period is of the number of days in the year,

(n) where the election made under paragraph 104(21.4)(d) of the Act, as enacted by subsection 78(23), or subsection 104(21.5) of the Act, as enacted by subsection 78(23), for the year was made by a personal trust, the portion of the taxpayer's net capital gains for the year that are to be treated as being in respect of capital gains realized on dispositions of property that occurred in a particular period in the year is that proportion of those net capital gains that the number of days in the particular

period is of the number of days that are in all periods in the year in which a net gain was realized,

(o) where an amount is designated under subsection 104(21) of the Act in respect of a beneficiary by a trust in respect of the net taxable capital gains of the trust for a taxation year of the trust and the trust does not elect under paragraph 104(21.4)(d) of the Act, as enacted by subsection 78(23), for the year, the deemed gains of the beneficiary referred to in subsection 104(21.4) of the Act, as enacted by subsection 78(23), are deemed to have been realized in each period in the year in a proportion that is equal to the same proportion that the net capital gains of the trust realized by the trust in that period is of all the net capital gains realized by the trust in the year,

(p) where in the course of administering the estate of a deceased taxpayer, a capital loss from a disposition of property by the legal representative of a deceased taxpayer is deemed under paragraph 164(6)(c) of the Act to be a capital loss of the deceased taxpayer from the disposition of property by the taxpayer in the taxpayer's last taxation year and not to be a capital loss of the estate, the capital loss is deemed to be from the disposition of a property by the taxpayer immediately before the taxpayer's death,

(q) each capital gain referred to in paragraph 104(21.4)(a) of the Act, as enacted by subsection 78(23), in respect of a beneficiary, shall be determined as if that paragraph were read without reference to subparagraph 104(21.4)(a)(ii) of the Act,

(r) where no capital gains or losses are realized in a period, the amount of net capital gains or losses for that period is deemed to be nil,

(s) where a net amount is included as a capital gain of a taxpayer for a taxation year because of the granting of an option under subsection 49(1) of the Act, the net amount is deemed to be a capital gain of the taxpayer from a disposition of property on the day on which the option was granted,

(t) where a net amount is included as a capital gain of a corporation for its taxation year under subsection 49(2) of the Act because of the expiration of an option that was granted by the corporation, the net amount is deemed to be a capital gain of the corporation from a disposition of property on the day on which the option expired,

(u) where a net amount is included as a capital gain of a trust for its taxation year under subsection 49(2.1) of the Act because of the expiration of an option that was granted by the trust, the

net amount is deemed to be a capital gain of the trust from a disposition of property on the day on which the option expired, and

(v) where a net amount is included as a capital gain of a taxpayer for a taxation year because of subsection 49(3), (3.01) or (3.1) of the Act, the net amount is deemed to be a capital gain of the taxpayer from a disposition of property on the day on which the option was exercised.

(6) Subsection (2) applies to the 2000 and subsequent taxation years except that

(a) for a taxation year of a taxpayer that includes either February 28, 2000 or October 17, 2000, the reference to the fraction "1/4" in paragraph 38(a.1) of the Act, as enacted by subsection (2), shall be read as a reference to 1/2 of the fraction in paragraph 38(a) of the Act, as enacted by subsection (1), that applies to the taxpayer for the year; and

(b) for a taxation year that ended before February 28, 2000, the reference to the fraction "1/4" in paragraph 38(a.1) of the Act, as enacted by subsection (2), shall be read as a reference to the fraction "3/8".

(7) Subsection (3) applies to gifts made by a taxpayer after February 27, 2000 except that

(a) if the taxpayer's taxation year began after February 28, 2000 and ended before October 17, 2000, the reference to the fraction "1/4" in paragraph 38(a.2) of the Act, as enacted by subsection (3), shall be read as a reference to the fraction "1/3"; and

(b) if the taxpayer's taxation year includes either February 28, 2000 or October 17, 2000, the reference to the fraction "1/4" in paragraph 38(a.2) of the Act, as enacted by subsection (3), shall be read as a reference to 1/2 of the fraction in paragraph 38(a) of the Act, as enacted by subsection (1), that applies to the taxpayer for the year.

23. (1) Subparagraphs 39(9)(b)(i) to (i.2) of the Act are replaced by the following:

(i) the total of all amounts each of which is twice the amount deducted by the taxpayer under section 110.6 in computing the taxpayer's taxable income for a preceding taxation year that

(A) ended before 1988, or

(B) begins after October 17, 2000,

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

(A) $\frac{3}{2}$ of the amount deducted under section 110.6 in computing the taxpayer's taxable income for a preceding taxation year that

(I) ended after 1987 and before 1990, or

(II) began after February 27, 2000 and ended before October 18, 2000, or

(B) the amount determined by multiplying the reciprocal of the fraction in paragraph 38(a) that applies to the taxpayer for each of the taxpayer's taxation years that includes either February 28, 2000 or October 18, 2000 by the amount deducted under section 110.6 in computing the taxpayer's taxable income for that year, and

(i.2) the total of all amounts each of which is $\frac{4}{3}$ of the amount deducted under section 110.6 in computing the taxpayer's taxable income for a preceding taxation year that ended after 1989 and before February 28, 2000

(2) Subparagraphs 39(10)(b)(i) to (i.2) of the Act are replaced by the following:

(i) the total of all amounts each of which is twice the amount designated by the trust under subsection 104(21.2) in respect of a beneficiary in its return of income for a preceding taxation year that

(A) ended before 1988, or

(B) begins after October 17, 2000,

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

(A) $\frac{3}{2}$ of the amount designated by the trust under subsection 104(21.2) in respect of a beneficiary in its return of income for a preceding taxation year that

(I) ended after 1987 and before 1990, or

(II) began after February 27, 2000 and ended before October 18, 2000, or

(B) the amount determined by multiplying the reciprocal of the fraction in paragraph 38(a) that applies to the trust for each of the trust's taxation years that includes either February 28, 2000 or October 18, 2000 by the amount

designated by the trust under subsection 104(21.2) in respect of a beneficiary in its return of income for that year, and

(i.2) the total of all amounts each of which is $\frac{4}{3}$ of the amount designated by the trust under subsection 104(21.2) in respect of a beneficiary in its return of income for a preceding taxation year that ended after 1989 and before February 28, 2000

(3) Subsection 39(11) of the Act is replaced by the following:

Recovery of bad
debt

(11) Where an amount is received in a taxation year on account of a debt (in this subsection referred to as the "recovered amount") in respect of which a deduction for bad debts had been made under subsection 20(4.2) in computing a taxpayer's income for a preceding taxation year, the amount, if any, by which $\frac{1}{2}$ of the recovered amount exceeds the amount determined under paragraph 12(1)(i.1) in respect of the recovered amount is deemed to be a taxable capital gain of the taxpayer from a disposition of capital property in the year.

(4) Subsections (1) to (3) apply to taxation years that end after February 27, 2000 except that, for taxation years that ended after February 27, 2000 and before October 18, 2000, the reference to the fraction " $\frac{1}{2}$ " in subsection 39(11) of the Act, as enacted by subsection (3), shall be read as a reference to the fraction " $\frac{2}{3}$ ".

24. (1) Paragraphs (a) and (b) of the description of C in the definition "exempt capital gains balance" in subsection 39.1(1) of the Act are replaced by the following:

(a) if the entity is a trust described in any of paragraphs (d) and (h) to (j) of the definition "flow-through entity" in this subsection, the total of

(i) $\frac{3}{2}$ of the total of all amounts each of which is the amount by which the individual's taxable capital gain (determined without reference to this section), for a preceding taxation year that began after February 27, 2000 and ended before October 18, 2000 that resulted from a designation made under subsection 104(21) by the trust, was reduced under subsection (3),

(ii) $\frac{4}{3}$ of the total of all amounts each of which is the amount by which the individual's taxable capital gain (determined without reference to this section), for a preceding taxation year that ended before February 28, 2000 and that

resulted from a designation made under subsection 104(21) by the trust, was reduced under subsection (3),

(iii) the amount claimed by the individual under subparagraph 104(21.4)(a)(ii) for a preceding taxation year, and

(iv) twice the total of all amounts each of which is the amount by which the individual's taxable capital gain (determined without reference to this section) for a preceding taxation year that began after October 17, 2000 and that resulted from a designation made under subsection 104(21) by the trust, was reduced under subsection (3),

(b) if the entity is a partnership, the total of

(i) $\frac{3}{2}$ of the total of

(A) the total of all amounts each of which is the amount by which the individual's share of the partnership's taxable capital gains (determined without reference to this section), for its fiscal period that began after February 27, 2000 and ended before October 18, 2000, was reduced under subsection (4), and

(B) the total of all amounts each of which is the amount by which the individual's share of the partnership's income from a business (determined without reference to this section), for its fiscal period that began after February 27, 2000 and ended before October 18, 2000, was reduced under subsection (5),

(ii) $\frac{4}{3}$ of the total of

(A) the total of all amounts each of which is the amount by which the individual's share of the partnership's taxable capital gains (determined without reference to this section), for its fiscal period that ended before February 28, 2000 and in a preceding taxation year was reduced under subsection (4), and

(B) the total of all amounts each of which is the amount by which the individual's share of the partnership's income from a business (determined without reference to this section), for its fiscal period that ended before February 28, 2000 and in a preceding taxation year, was reduced under subsection (5),

(iii) the product obtained when the reciprocal of the fraction in paragraph 38(a) that applies to the partnership for its

fiscal period that includes either February 28, 2000 or October 17, 2000 is multiplied by the total of

(A) the total of all amounts each of which is the amount by which the individual's share of the partnership's taxable capital gains (determined without reference to this section), for its fiscal period that includes either February 28, 2000 or October 17, 2000 and ended in a preceding taxation year, was reduced under subsection (4), and

(B) the total of all amounts each of which is the amount by which the individual's share of the partnership's income from a business (determined without reference to this section), for its fiscal period that includes either February 28, 2000 or October 17, 2000 and ended in a preceding taxation year was reduced under subsection (5), and

(iv) twice the total of

(A) the total of all amounts each of which is the amount by which the individual's share of the partnership's taxable capital gains (determined without reference to this section), for its fiscal period that began after October 17, 2000 and ended in a preceding taxation year, was reduced under subsection (4), and

(B) the total of all amounts each of which is the amount by which the individual's share of the partnership's income from a business (determined without reference to this section), for its fiscal period that began after October 17, 2000 and ended in a preceding taxation year, was reduced under subsection (5), and

(2) Paragraphs (a) and (b) of the description of B in subsection 39.1(2) of the Act are amended by replacing the reference to the expression "4/3 of" with a reference to the word "twice".

(3) Subsection 39.1(3) of the Act is amended by replacing the reference to the fraction "3/4" with a reference to the fraction "1/2".

(4) The description of A in subsection 39.1(4) of the Act is amended by replacing the reference to the fraction "3/4" with a reference to the fraction "1/2".

(5) Subsection 39.1(5) of the Act is replaced by the following:

Reduction in
share of
partnership's

income from a
business

(5) An individual's share otherwise determined for a taxation year of the income of a partnership from a business for the partnership's fiscal period that ends in the year and the individual's share of the partnership's taxable capital gain, if any, arising under paragraph 14(1)(b) shall be reduced by such amount as the individual claims, not exceeding the lesser of

(a) the amount, if any, by which $1/2$ of the individual's exempt capital gains balance for the year in respect of the partnership exceeds the total of

(i) the amount, if any, claimed under subsection (4) by the individual for the year in respect of the partnership, and

(ii) all amounts, if any, claimed under this subsection by the individual for the year in respect of other businesses of the partnership, and

(b) the amount determined by the formula

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

where

A is the amount included under paragraph 14(1)(b) in computing the income of the partnership from the business for the fiscal period,

B is the amount that would otherwise be the individual's share of the partnership's income from the business for the fiscal period, and

C is the partnership's income from the business for the fiscal period.

(6) Subsection (1) applies to taxation years that end after February 27, 2000.

(7) Subsections (2) to (5) apply to taxation years that end after February 27, 2000 except that, where the taxation year of an entity that ends in the taxpayer's taxation year includes either February 28, 2000 or October 17, 2000 or began after February 28, 2000 and ended before October 17, 2000,

(a) the reference to the word "twice" in paragraphs (a) and (b) of the description of B in subsection 39.1(2) of the Act, as enacted by subsection (2), shall be read as a reference to the

expression "the fraction that is the reciprocal of the fraction in paragraph 38(a), as enacted by subsection 22(1) of the *Income Tax Amendments Act, 2000*, that applies to the entity for its taxation year that ends in the taxpayer's taxation year, multiplied by";

(b) the reference to the fraction "1/2" in subsection 39.1(3) of the Act, as enacted by subsection (3), shall be read as a reference to the fraction in paragraph 38(a) of the Act, as enacted by subsection 22(1), that applies to the entity for its taxation year that ends in the taxpayer's taxation year;

(c) the reference to the fraction "1/2" in the description of A in subsection 39.1(4) of the Act, as enacted by subsection (4), shall be read as reference to the fraction in paragraph 38(a) of the Act, as enacted by subsection 22(1), that applies to the entity for its taxation year that ends in the taxpayer's taxation year;

(d) the reference to the fraction "1/2" in subsection 39.1(5) of the Act, as enacted by subsection (5), shall be read as reference to the fraction in paragraph 14(1)(b) of the Act, as enacted by subsection 7(1), that applies to the entity for its taxation year that ends in the taxpayer's taxation year; and

(e) subparagraph 39.1(5)(a)(i) of the Act, as enacted by subsection (5), shall be read as follows:

(i) the amount, if any, claimed under subsection (4) by the individual for the year in respect of the partnership multiplied by the fraction obtained when the fraction in paragraph 14(1)(b) applicable to the entity for its taxation year that ends in the taxpayer's taxation year is divided by the fraction in paragraph 38(a) that applies to the entity for that taxation year.

25. (1) Clause 40(2)(g)(iv)(A) of the Act is replaced by the following:

(A) a trust governed by a deferred profit sharing plan, an employees profit sharing plan or a registered retirement income fund under which the taxpayer is a beneficiary or immediately after the disposition becomes a beneficiary, or

(2) Paragraph 40(3.14)(a) of the Act is replaced by the following:

(a) by operation of any law governing the partnership arrangement, the liability of the member as a member of the partnership is limited (except by operation of a provision of a

statute of Canada or a province that limits the member's liability only for debts, obligations and liabilities of the partnership, or any member of the partnership, arising from negligent acts or omissions or misconduct that another member of the partnership or an employee, agent or representative of the partnership commits in the course of the partnership business while the partnership is a limited liability partnership);

(3) Section 40 of the Act is amended by adding the following after subsection (3.6):

Losses of
non-resident

(3.7) If an individual disposes of a property at any time after having ceased to be resident in Canada, for the purposes of applying subsections 100(4), 107(1) and 112(3) to (3.32) and (7) in computing the individual's loss from the disposition,

(a) the individual is deemed to be a corporation in respect of dividends received by the individual, or deemed under Part XIII to have been paid to the individual, at a particular time that is after the time at which the individual last acquired the property and at which the individual was non-resident; and

(b) an amount on account of

(i) each taxable dividend received by the individual at a particular time described in paragraph (a), and

(ii) each amount deemed under Part XIII to have been paid to the individual at a particular time described in paragraph (a), as a dividend from a corporation resident in Canada, to the extent that the amount can reasonably be considered to relate to the property,

is deemed to be a taxable dividend that was received by the individual and that was deductible under section 112 in computing the individual's taxable income or taxable income earned in Canada for the taxation year that includes that particular time.

(4) The portion of subsection 40(9) of the Act before the formula is replaced by the following:

Additions to
taxable
Canadian
property

(9) If a non-resident person disposes of a taxable Canadian property

(a) that the person last acquired before April 27, 1995,

(b) that would not be a taxable Canadian property immediately before the disposition if section 115 were read as it applied to dispositions that occurred on April 26, 1995, and

(c) that would be a taxable Canadian property immediately before the disposition if section 115 were read as it applied to dispositions that occurred on January 1, 1996,

the person's gain or loss from the disposition is deemed to be the amount determined by the formula

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

(6) Subsection (2) applies after 1997.

(7) Subsection (3) applies to dispositions after December 23, 1998 by individuals who cease to be resident in Canada after October 1, 1996.

(8) Subsection (4) applies to dispositions that occur after April 26, 1995.

26. (1) Subsection 41(1) of the Act is amended by replacing the reference to the fraction "3/4" with a reference to the fraction "1/2".

(2) Subsection (1) applies to taxation years that end after February 27, 2000 except that, for taxation years that include either February 28, 2000 or October 17, 2000 or began after February 28, 2000 and ended before October 17, 2000, the reference to the fraction "1/2" in subsection 41(1) of the Act, as enacted by subsection (1), shall be read as a reference to the fraction in paragraph 38(a) of the Act, as enacted by subsection 22(1), that applies to the taxpayer for the year.

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

General rule
for part
dispositions

43. (1) For the purpose of computing a taxpayer's gain or loss for a taxation year from the disposition of part of a property, the adjusted cost base to the taxpayer, immediately before the

disposition, of that part is the portion of the adjusted cost base to the taxpayer at that time of the whole property that can reasonably be regarded as attributable to that part.

Ecological
gifts

(2) For the purposes of subsection (1) and section 53, where at any time a taxpayer disposes of a servitude, covenant or easement to which land is subject in circumstances where subsection 110.1(5) or 118.1(12) applies,

(a) the portion of the adjusted cost base to the taxpayer of the land immediately before the disposition that can reasonably be regarded as attributable to the servitude, covenant or easement, as the case may be, is deemed to be equal to the amount determined by the formula

$$A \times B/C$$

where

A is the adjusted cost base to the taxpayer of the land immediately before the disposition,

B is the amount determined under subsection 110.1(5) or 118.1(12) in respect of the disposition, and

C is the fair market value of the land immediately before the disposition; and

(b) for greater certainty, the cost to the taxpayer of the land shall be reduced at the time of the disposition by the amount determined under paragraph (a).

Payments out of
trust income,
etc.

(3) Notwithstanding subsection (1), where part of a capital interest of a taxpayer in a trust would, but for paragraph (h) or (i) of the definition "disposition" in subsection 248(1), be disposed of solely because of the satisfaction of a right to enforce payment of an amount by the trust, no part of the adjusted cost base to the taxpayer of the taxpayer's capital interest in the trust shall be allocated to that part of the capital interest.

(2) Subsection 43(1) of the Act, as enacted by subsection (1), applies after February 27, 1995.

(3) Subsection 43(2) of the Act, as enacted by subsection (1), applies in respect of gifts made after February 27, 1995.

(4) Subsection 43(3) of the Act, as enacted by subsection (1), applies to satisfactions of rights that occur after 1999.

28. (1) The portion of subsection 44(1) of the Act before paragraph (a) is replaced by the following:

Exchanges of
property

44. (1) Where at any time in a taxation year (in this subsection referred to as the "initial year") an amount has become receivable by a taxpayer as proceeds of disposition of a capital property that is not a share of the capital stock of a corporation (which capital property is in this section referred to as the taxpayer's "former property") that is either

(2) Subsection (1) applies to shares disposed of after April 15, 1999, other than shares disposed of after that date as a consequence of a public takeover bid or offer filed with a public authority before April 16, 1999.

29. (1) The Act is amended by adding the following after section 44:

Definitions

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

"ACB reduction"
« réduction du
prix de base
rajusté »

"ACB reduction" of an individual in respect of a replacement share of the individual in respect of a qualifying disposition of the individual means the amount determined by the formula

$$D \times (E/F)$$

where

D is the permitted deferral of the individual in respect of the qualifying disposition;

E is the qualifying cost to the individual of the replacement share; and

F is the qualifying cost to the individual of all the replacement shares of the individual in respect of the qualifying disposition.

"active
business
corporation"
« *société
exploitant
activement une
entreprise* »

"active business corporation" at any time means, subject to subsection (10), a corporation that is, at that time, a taxable Canadian corporation all or substantially all of the fair market value of the assets of which at that time is attributable to assets of the corporation that are

(a) assets used principally in an active business carried on by the corporation or by an active business corporation that is related to the corporation;

(b) shares issued by or debt owing by other active business corporations that are related to the corporation; or

(c) a combination of assets described in paragraphs (a) and (b).

"carrying
value"
« *valeur
comptable* »

"carrying value" of the assets of a corporation at any time means the amount at which the assets of the corporation would be valued for the purpose of the corporation's balance sheet as of that time if that balance sheet were prepared in accordance with generally accepted accounting principles used in Canada at that time, except that an asset of a corporation that is a share or debt issued by a related corporation is deemed to have a carrying value of nil.

"common share"
« *action
ordinaire* »

"common share" means a share prescribed for the purpose of paragraph 110(1)(d).

"eligible
pooling
arrangement"
« *arrangement
admissible de
mise en commun*
»

"eligible pooling arrangement" in respect of an individual means an agreement in writing made between the individual and another person or partnership (which other person or partnership is referred to in this definition and subsection (3) as the "investment manager") where the agreement provides for

(a) the transfer of funds or other property by the individual to the investment manager for the purpose of making investments on behalf of the individual;

(b) the purchase of eligible small business corporation shares with those funds, or the proceeds of a disposition of the other property, within 60 days after receipt of those funds or the other property by the investment manager; and

(c) the provision of a statement of account to the individual by the investment manager at the end of each month that ends after the transfer disclosing the details of the investment portfolio held by the investment manager on behalf of the individual at the end of that month and the details of the transactions made by the investment manager on behalf of the individual during the month.

"eligible small
business
corporation"
« *société
admissible
exploitant une
petite
entreprise* »

"eligible small business corporation" at any time means, subject to subsection (10), a corporation that, at that time, is a Canadian-controlled private corporation all or substantially all of the fair market value of the assets of which at that time is attributable to assets of the corporation that are

(a) assets used principally in an active business carried on primarily in Canada by the corporation or by an eligible small business corporation that is related to the corporation;

(b) shares issued by or debt owing by other eligible small business corporations that are related to the corporation; or

(c) a combination of assets described in paragraphs (a) and (b).

"eligible small
business
corporation
share"
« *action
déterminée de
petite
entreprise* »

"eligible small business corporation share" of an individual means a common share issued by a corporation to the individual if

(a) at the time the share was issued, the corporation was an eligible small business corporation; and

(b) immediately before and after the share was issued, the total carrying value of the assets of the corporation and corporations related to it did not exceed \$50,000,000.

"permitted
deferral"
« *montant de
report autorisé*
»

"permitted deferral" of an individual in respect of a qualifying disposition of the individual means the amount determined by the formula

$$(G/H) \times I$$

where

G is the lesser of the amount included in the description of H and the total of all amounts each of which is the qualifying cost to the individual of a replacement share in respect of the qualifying disposition;

H is the qualifying portion of the individual's proceeds of disposition from the qualifying disposition; and

I is the qualifying portion of the individual's capital gain from the qualifying disposition.

"qualifying
cost"
« *coût
admissible* »

"qualifying cost" to an individual of particular replacement shares of the individual in respect of a qualifying disposition of the individual that are shares of the capital stock of a particular eligible small business corporation means the lesser of

(a) the total of all amounts each of which is the cost to the individual of such a replacement share; and

(b) the amount by which \$2,000,000 exceeds the total of all amounts each of which is the cost to the individual of a share that was a share of the capital stock of the particular eligible small business corporation or of a corporation related to it at the time the particular replacement shares were acquired and that was a replacement share of the individual in respect of another qualifying disposition.

"qualifying
disposition"
« *disposition
admissible* »

"qualifying disposition" of an individual (other than a trust) means, subject to subsection (9), a disposition of shares of the capital stock of a corporation where each such share disposed of was

(a) an eligible small business corporation share of the individual;

(b) throughout the period during which the individual owned the share, a common share of an active business corporation; and

(c) throughout the 185-day period that ended immediately before the disposition of the share, owned by the individual.

"qualifying
portion of a
capital gain"
« *partie
admissible d'un
gain en capital*
»

"qualifying portion of a capital gain" of an individual from a particular qualifying disposition of the individual means the amount determined by the formula

$$J \times (1 - (K/L))$$

where

J is the individual's capital gain from the particular qualifying disposition, determined without reference to this section

K is the amount, if any, by which the total of

(a) the total of all amounts each of which is the adjusted cost base to the individual of a share of a particular corporation that was the subject of the particular qualifying disposition (which adjusted cost base shall be determined immediately before the share was disposed of and without reference to this section), and

(b) the total of all amounts each of which is the adjusted cost base to the individual of a share of the particular corporation or a corporation related to it at the time of the particular qualifying disposition that was the subject of another qualifying disposition (in respect of which a permitted deferral was deducted under this section by the individual) that occurred at or before the time of the particular qualifying disposition (which adjusted cost base shall be determined immediately before the share was disposed of and without reference to this section)

exceeds

(c) \$2,000,000; and

L is the total of all amounts each of which is the adjusted cost base to the individual of a share of the particular corporation that was the subject of the particular qualifying disposition (which adjusted cost base shall be determined immediately before the share was disposed of and without reference to this section).

"qualifying
portion of the
proceeds of
disposition"
« *partie
admissible du*

*produit de
disposition »*

"qualifying portion of the proceeds of disposition" of an individual from a qualifying disposition means the amount determined by the formula

$$M \times (N/O)$$

where

M is the individual's proceeds of disposition from the qualifying disposition;

N is the individual's qualifying portion of the capital gain from the qualifying disposition; and

O is the individual's capital gain from the qualifying disposition, determined without reference to this section.

"replacement
share"
« *action de
remplacement* »

"replacement share" of an individual in respect of a qualifying disposition of the individual in a taxation year means an eligible small business corporation share of the individual that is

(a) acquired by the individual in the year or within 60 days after the end of the year, but not later than 120 days after the qualifying disposition occurred; and

(b) designated by the individual in the individual's return of income for the year to be a replacement share in respect of the qualifying disposition.

Capital gain
deferral

(2) Where an individual has made a qualifying disposition in a taxation year,

(a) the individual's capital gain for the year from the qualifying disposition is deemed to be the amount by which the individual's capital gain for the year from the qualifying disposition, determined without reference to this section, exceeds the individual's permitted deferral in respect of the qualifying disposition;

(b) in computing the adjusted cost base to the individual of a replacement share of the individual in respect of the qualifying disposition at any time after its acquisition, there shall be deducted the amount of the ACB reduction of the individual in respect of the replacement share; and

(c) where the qualifying disposition was a disposition of a share that was a taxable Canadian property of the individual, the replacement share of the individual in respect of the qualifying disposition is deemed to be taxable Canadian property of the individual.

Special rule –
re eligible
pooling
arrangements

(3) Except for the purpose of the definition "eligible pooling arrangement" in subsection (1), any transaction entered into by an investment manager under an eligible pooling arrangement on behalf of an individual is deemed to be a transaction of the individual and not a transaction of the investment manager.

Special rule –
re acquisitions
on death

(4) For the purpose of this section, a share of the capital stock of a corporation, acquired by an individual as a consequence of the death of a person who is the individual's spouse, common-law partner or parent, is deemed to be a share that was acquired by the individual at the time it was acquired by that person and owned by the individual throughout the period that it was owned by that person, if

(a) where the person was the spouse or common-law partner of the individual, the share was an eligible small business share of the person and subsection 70(6) applied to the individual in respect of the share; or

(b) where the person was the individual's parent, the share was an eligible small business share of the parent and subsection 70(9.2) applied to the individual in respect of the share.

Special rule –
re breakdown of
relationships

(5) For the purpose of this section, a share of the capital stock of a corporation, acquired by an individual from a person who was

the individual's former spouse or common-law partner as a consequence of the settlement of rights arising out of their marriage or common-law partnership, is deemed to be a share that was acquired by the individual at the time it was acquired by that person and owned by the individual throughout the period that it was owned by that person if the share was an eligible small business share of the person and subsection 73(1) applied to the individual in respect of the share.

Special rule -
re eligible
small business
corporation
share exchanges

(6) For the purpose of this section, where an individual receives shares of the capital stock of a corporation that are eligible small business corporation shares of the individual (in this subsection referred to as the "new shares") as the sole consideration for the disposition of shares issued by another corporation that were eligible small business corporation shares of the individual (in this subsection referred to as the "exchanged shares"), the new shares are deemed to have been owned by the individual throughout the period that the exchanged shares were owned by the individual if

(a) paragraph 85(1)(h) or subsection 85.1(3) or 87(4) applied to the individual in respect of the new shares; and

(b) the individual's total proceeds of disposition of the exchanged shares was equal to the total of all amounts each of which was the individual's adjusted cost base of an exchanged share immediately before the disposition.

Special rule -
re active
business
corporation
share exchanges

(7) For the purpose of this section, where an individual receives common shares of the capital stock of a corporation (in this subsection referred to as the "new shares") as the sole consideration for the disposition of common shares of another corporation (in this subsection referred to as the "exchanged shares"), the new shares are deemed to be eligible small business corporation shares of the individual and shares of the capital stock of an active business corporation that were owned by the individual throughout the period that the exchanged shares were owned by the individual, if

(a) paragraph 85(1)(h) or subsection 85.1(3) or 87(4) applied to the individual in respect of the new shares;

(b) the total of the individual's proceeds of disposition in respect of the disposition of the exchanged shares was equal to the total of the individual's adjusted cost bases immediately before the disposition of such shares; and

(c) the disposition of the exchanged shares was a qualifying disposition of the individual.

Special rule -
re carrying on
an active
business

(8) For the purpose of the definitions in subsection (1), a property held at any particular time by a corporation that would, if this Act were read without reference to this subsection, be considered to carry on an active business at that time, is deemed to be used or held by the corporation in the course of carrying on that active business if the property (or other property for which the property is substituted property) was acquired by the corporation, at any time in the 36-month period ending at the particular time, because the corporation

(a) issued a debt or a share of a class of its capital stock in order to acquire money for the purpose of acquiring property to be used in or held in the course of, or making expenditures for the purpose of, earning income from an active business carried on by it;

(b) disposed of property used or held by it in the course of carrying on an active business in order to acquire money for the purpose of acquiring property to be used in or held in the course of, or making expenditures for the purpose of, earning income from an active business carried on by it; or

(c) accumulated income derived from an active business carried on by it in order to acquire property to be used in or held in the course of, or to make expenditures for the purpose of, earning income from an active business carried on by it.

Special rule -
re qualifying
disposition

(9) A disposition of a common share of an active business corporation (in this subsection referred to as the "subject share") by an individual that, but for this subsection, would be a

qualifying disposition of the individual is deemed not to be a qualifying disposition of the individual unless the active business of the corporation referred to in paragraph (a) of the definition "active business corporation" in subsection (1) was carried on primarily in Canada

(a) at all times in the period that began at the time the individual last acquired the subject share and ended at the time of disposition, if that period is less than 730 days; or

(b) in any other case, for at least 730 days in the period referred to in paragraph (a).

Special rule –
re exceptions

(10) For the purpose of this section, an eligible small business corporation and an active business corporation at any time do not include a corporation that is at that time,

(a) a professional corporation;

(b) a specified financial institution;

(c) a corporation the principal business of which is the leasing, rental, development or sale, or any combination of those activities, of real property owned by it; or

(d) a corporation more than 50 per cent of the fair market value of the property of which (net of debts incurred to acquire the property) is attributable to real property.

Determination
rule

(11) In determining whether a share owned by an individual is an eligible small business corporation share of the individual, this Act shall be read without reference to section 48.1.

Anti-avoidance
rule

(12) The permitted deferral of an individual in respect of a qualifying disposition of shares issued by a corporation (in this subsection referred to as "new shares") is deemed to be nil where

(a) the new shares (or shares for which the new shares are substituted property) were issued to the individual or a person related to the individual as part of a series of transactions or events in which

(i) shares of the capital stock of a corporation (in this subsection referred to as the "old shares") were disposed of by the individual or a person related to the individual, or

(ii) the paid-up capital of old shares or the adjusted cost base to the individual or to a person related to the individual of the old shares was reduced;

(b) the new shares (or shares for which the new shares are substituted property) were issued by the corporation that issued the old shares or were issued by a corporation that, at or immediately after the time of issue of those shares, was a corporation that was not dealing at arm's length with the corporation that issued the old shares; and

(c) it is reasonable to conclude that one of the main reasons for the series of transactions or events or a transaction in the series was to permit the individual, persons related to the individual, or the individual and persons related to the individual to become eligible to deduct under subsection (2) permitted deferrals in respect of qualifying dispositions of new shares (or shares substituted for the new shares) the total of which would exceed the total that those persons would have been eligible to deduct under subsection (2) in respect of permitted deferrals in respect of qualifying dispositions of old shares.

(2) Subsection (1) applies to dispositions that occur after February 27, 2000 except that, for dispositions that occurred after February 27, 2000 and before October 18, 2000,

(a) the definition "active business corporation" in subsection 44.1(1) of the Act, as enacted by subsection (1), shall be read without reference to the words "subject to subsection (10)" and as if the reference to the words "carried on" in paragraph (a) of that definition were read as a reference to "carried on primarily in Canada";

(b) the definition "eligible small business corporation" in subsection 44.1(1) of the Act, as enacted by subsection (1), shall be read without reference to the words "subject to subsection (10)";

(c) the definition "eligible small business corporation share" in subsection 44.1(1) of the Act, as enacted by subsection (1), shall be read as follows:

"eligible small business corporation share" of an individual means a common share issued by a corporation to the individual if

(a) at the time the share was issued, the corporation was an eligible small business corporation;

(b) immediately before the share was issued, the total carrying value of the assets of the corporation and corporations related to it did not exceed \$2,500,000; and

(c) immediately after the share was issued, the total carrying value of the assets of the corporation and corporations related to it did not exceed \$10,000,000.;

(d) the definition "qualifying cost" in subsection 44.1(1) of the Act, as enacted by subsection (1), shall be read as if the reference to "\$2,000,000" in paragraph (b) of that definition were read as a reference to "\$500,000";

(e) the definition "qualifying disposition" in subsection 44.1(1) of the Act, as enacted by subsection (1), shall be read without reference to the words "subject to subsection (9)";

(f) the definition "qualifying portion of a capital gain" in subsection 44.1(1) of the Act, as enacted by subsection (1), shall be read as if the reference to "\$2,000,000" in paragraph (c) of the description of K in that definition were read as a reference to "\$500,000"; and

(g) section 44.1 of the Act, as enacted by subsection (1), shall be read without reference to subsections 44.1(9) and (10) of the Act, as enacted by subsection (1).

30. (1) Subsection 45(1) of the Act is amended by striking out the word "and" at the end of paragraph (b), by adding the word "and" at the end of paragraph (c) and by adding the following after paragraph (c):

(d) in applying this subsection in respect of a non-resident taxpayer, a reference to "gaining or producing income" shall be read as a reference to "gaining or producing income from a source in Canada".

(2) Subsection (1) applies after October 1, 1996.

31. (1) The portion of subsection 46(1) of the Act before paragraph (a) is replaced by the following:

Personal-use
property

46. (1) Where a taxpayer has disposed of a personal-use property (other than an excluded property disposed of in circumstances to

which subsection 110.1(1), or the definition "total charitable gifts", "total cultural gifts" or "total ecological gifts" in subsection 118.1(1), applies) of the taxpayer, for the purposes of this subdivision

(2) The portion of subsection 46(2) of the Act before paragraph (a) is replaced by the following:

Where part only
of property
disposed of

(2) Where a taxpayer has disposed of part of a personal-use property (other than a part of an excluded property disposed of in circumstances to which subsection 110.1(1), or the definition "total charitable gifts", "total cultural gifts" or "total ecological gifts" in subsection 118.1(1), applies) owned by the taxpayer and has retained another part of the property, for the purposes of this subdivision

(3) Section 46 of the Act is amended by adding the following after subsection (4):

Excluded
property

(5) For the purpose of this section, "excluded property" of a taxpayer means property acquired by the taxpayer, or by a person with whom the taxpayer does not deal at arm's length, in circumstances in which it is reasonable to conclude that the acquisition of the property relates to an arrangement, plan or scheme that is promoted by another person or partnership and under which it is reasonable to conclude that the property will be the subject of a gift to which subsection 110.1(1), or the definition "total charitable gifts", "total cultural gifts" or "total ecological gifts" in subsection 118.1(1), applies.

(4) Subsections (1) to (3) apply to property acquired after February 27, 2000.

32. (1) Section 47 of the Act is amended by adding the following after subsection (2):

Securities
acquired by
employee

(3) For the purpose of subsection (1), a security (within the meaning assigned by subsection 7(7)) acquired by a taxpayer after

February 27, 2000 is deemed not to be identical to any other security acquired by the taxpayer if

(a) the security is acquired in circumstances to which any of subsections 7(1.1), (1.5) or (8) or 147(10.1) applies; or

(b) the security is a security to which subsection 7(1.31) applies.

(2) Subsection (1) applies after 1999.

33. (1) Subparagraph 48.1(1)(a)(ii) of the Act is replaced by the following:

(ii) immediately after that time, ceases to be a small business corporation because a class of its or another corporation's shares is listed on a prescribed stock exchange, and

(2) Subsection (1) applies to corporations that cease to be small business corporations after 1999.

(3) Where a corporation ceases to be a Canadian-controlled private corporation in a taxation year solely because of the application of subsection 113(2) of this Act, an election under subsection 48.1(1) of the Act, as enacted by subsection (1), that is made by an individual in respect of the 1999 or 2000 taxation year is deemed to have been made on time if the election is made on or before the individual's filing-due date for the taxation year in which this Act receives royal assent.

34. (1) Paragraph 49(5)(b) of the Act is replaced by the following:

(b) for the purposes of subsections (2) to (4) and subparagraph (b)(iv) of the definition "disposition" in subsection 248(1), the original option and each extension or renewal of it is deemed to be the same option; and

(2) Subsection (1) applies to options granted after December 23, 1998.

35. (1) Subsections 52(1) and (1.1) of the Act are replaced by the following:

Cost of certain
property the
value of which
included in
income

52. (1) Where

(a) a taxpayer acquired property after 1971 (other than an annuity contract, a right as a beneficiary under a trust to enforce payment of an amount by the trust to the taxpayer, property acquired in circumstances to which subsection (2) or (3) applies or property acquired from a trust in satisfaction of all or part of the taxpayer's capital interest in the trust), and

(b) an amount in respect of its value was

(i) included, otherwise than under section 7, in computing

(A) the taxpayer's taxable income or taxable income earned in Canada, as the case may be, for a taxation year during which the taxpayer was non-resident, or

(B) the taxpayer's income for a taxation year throughout which the taxpayer was resident in Canada, or

(ii) for the purpose of computing the tax payable under Part XIII by the taxpayer, included in an amount that was paid or credited to the taxpayer,

for the purposes of this subdivision, the amount so included shall be added in computing the cost to the taxpayer of the property, except to the extent that the amount was otherwise added to the cost or included in computing the adjusted cost base to the taxpayer of the property.

(2) Subsection 52(6) of the Act is repealed.

(3) Subsection (1) applies after 1999 except that, in respect of property acquired before 2000 and disposed of before March 2000, paragraph 52(1)(a) of the Act, as enacted by that subsection, shall be read as follows:

(a) a taxpayer acquired property after 1971 (other than an annuity contract or property acquired as described in subsection (2), (3) or (6)), and

(4) Subsection (2) applies after 1999, but not to rights that were acquired before 2000 and disposed of before March 2000.

36. (1) Clauses 53(1)(e)(i)(A) and (A.1) of the Act are replaced by the following:

(A) the fractions set out in subsection 14(5), paragraphs 38(a) to (a.2), subsection 41(1) and in the formula in paragraph 14(1)(b),

(A.1) paragraph 18(1)(1.1),

(A.2) the description of C in the formula in paragraph 14(1)(b), and

(2) Paragraph 53(1)(j) of the Act is replaced by the following:

Share or fund
unit taxed as
stock option
benefit

(j) if the property is a security (within the meaning assigned by subsection 7(7)) and, in respect of its acquisition by the taxpayer, a benefit was deemed by section 7 to have been received in any taxation year that ends after 1971 and begins before that time by the taxpayer or by a person that did not deal at arm's length with the taxpayer or, if the security was acquired after February 27, 2000, would have been so deemed if section 7 were read without reference to subsections 7(1.1) and (8), the amount of the benefit that was, or would have been, so deemed to have been received;

(3) Subparagraph (ii) of the description of A in paragraph 53(1)(r) of the Act is amended by replacing the reference to the expression "4/3 of" with a reference to the word "twice".

(4) Paragraph 53(2)(a) of the Act is amended by striking out the word "and" at the end of subparagraph (iii), by adding the word "and" at the end of subparagraph (iv) and by adding the following after subparagraph (iv):

(v) any amount required by paragraph 44.1(2)(b) to be deducted in computing the adjusted cost base to the taxpayer of the share;

(5) Clauses 53(2)(c)(i)(A) and (A.1) of the Act are replaced by the following:

(A) the fractions set out in subsection 14(5), paragraph 38(b) and in the formula in paragraph 14(1)(b),

(A.1) paragraph 18(1)(1.1),

(A.2) the description of C in the formula in paragraph 14(1)(b),

(6) Clause 53(2)(c)(ii)(B) of the Act is replaced by the following:

(B) the Canadian exploration and development expenses and foreign resource pool expenses, if any, incurred by the partnership in the fiscal period,

(7) The portion of paragraph 53(2)(h) of the Act before subparagraph (i) is replaced by the following:

(h) where the property is a capital interest of the taxpayer in a trust (other than an interest in a personal trust that has never been acquired for consideration or an interest of a taxpayer in a trust described in any of paragraphs (a) to (e.1) of the definition "trust" in subsection 108(1)),

(8) Subclause 53(2)(h)(i.1)(B)(I) of the Act is amended by striking out the reference to the expression "1/3 of".

(9) The portion of paragraph 53(2)(i) of the Act before subparagraph (i) is replaced by the following:

(i) where the property is a capital interest in a trust (other than a unit trust) not resident in Canada that was purchased after 1971 and before that time by the taxpayer from a non-resident person at a time (in this paragraph referred to as the "purchase time") when the property was not taxable Canadian property and the fair market value of such of the trust property as was

(10) The portion of paragraph 53(2)(i) of the Act after subparagraph (v) is replaced by the following:

was not less than 50% of the fair market value of all the trust property, that proportion of the amount, if any, by which

(vi) the fair market value at the purchase time of such of the trust properties as were properties described in any of subparagraphs (i) to (v)

exceeds

(vii) the total of the cost amounts to the trust at the purchase time of such of the trust properties as were properties described in any of subparagraphs (i) to (v),

that the fair market value at the purchase time of the interest is of the fair market value at the purchase time of all capital interests in the trust;

(11) The portion of paragraph 53(2)(j) of the Act before subparagraph (i) is replaced by the following:

(j) where the property is a unit of a unit trust not resident in Canada that was purchased after 1971 and before that time by the taxpayer from a non-resident person at a time (in this paragraph referred to as the "purchase time") when the property was not taxable Canadian property and the fair market value of such of the trust property as was

(12) The portion of paragraph 53(2)(j) of the Act after subparagraph (v) is replaced by the following:

was not less than 50% of the fair market value of all the trust property, that proportion of the amount, if any, by which

(vi) the fair market value at the purchase time of such of the trust properties as were properties described in any of subparagraphs (i) to (v)

exceeds

(vii) the total of the cost amounts to the trust at the purchase time of such of the trust properties as were properties described in any of subparagraphs (i) to (v),

that the fair market value at the purchase time of the unit is of the fair market value at the purchase time of all the issued units of the trust;

(13) Subsection 53(3) of the Act is repealed.

(14) The portion of subsection 53(4) of the Act before paragraph (a) is replaced by the following:

Recomputation
of adjusted
cost base on
transfers and
deemed
dispositions

(4) Where at any time in a taxation year a person or partnership (in this subsection referred to as the "vendor") disposes of a specified property and the proceeds of disposition of the property are determined under paragraph 48.1(1)(c), section 70 or 73, subsection 85(1), paragraph 87(4)(a) or (c) or 88(1)(a), subsection 97(2) or 98(2), paragraph 98(3)(f) or (5)(f), subsection 104(4), paragraph 107(2)(a), (2.1)(a), (4)(d) or (5)(a), 107.4(3)(a) or 111(4)(e) or section 128.1,

(15) Subsections (1) and (5) apply in respect of fiscal periods that end after February 27, 2000 and, for fiscal periods that ended

after February 18, 1997 and before February 28, 2000, clause 53(1)(e)(i)(A) of the Act, as enacted by subsection (1), shall be read as follows:

(A) the fractions set out in subsection 14(5), paragraphs 38(a) and (a.1) and subsection 41(1),

(16) Subsection (2) applies after 1999.

(17) Subsection (3) applies to taxation years that end after February 27, 2000 except that, in applying paragraph 53(1)(r) of the Act, as enacted by subsection (3), for those years in respect of a taxpayer's interest in an entity, where a taxation year of the entity that includes either February 28, 2000 or October 17, 2000 or began after February 28, 2000 and ended before October 17, 2000, ends in the taxpayer's taxation year, the reference to the word "twice" in subparagraph (ii) of the description of A in that paragraph shall be read as a reference to the expression "the fraction that is the reciprocal of the fraction in paragraph 38(a), as enacted by subsection 22(1) of the *Income Tax Amendments Act, 2000*, that applies in respect of the entity for its taxation year, multiplied by".

(18) Subsection (4) applies to dispositions that occur after February 27, 2000.

(19) Subsection (6) applies to taxation years that begin after 2000.

(20) Subsection (7) applies to amounts that become payable after 1999.

(21) Subsection (8) applies to taxation years that end after February 27, 2000 except that, in applying subclause 53(2)(h)(i.1)(B)(I) of the Act, as enacted by subsection (8), for those years in respect of a taxpayer's interest in a trust, where a taxation year of the trust that includes either February 28, 2000 or October 17, 2000 or began after February 28, 2000 and ended before October 17, 2000 ends in the taxpayer's taxation year, the reference to the expression "that is equal to the" in that subclause shall be read as a reference to the expression "that is equal to the fraction obtained when 1 is subtracted from the reciprocal of the fraction in paragraph 38(a), as enacted by subsection 22(1) of the *Income Tax Amendments Act, 2000*, that applies to the trust for its taxation year, multiplied by".

(22) Subsections (9) to (12) apply for the purpose of computing the adjusted cost base of property after April 26, 1995.

(23) Subsection (13) applies after October 1, 1996.

(24) Subsection (14) applies to the 1998 and subsequent taxation years.

37. (1) The definition "disposition" in section 54 of the Act is repealed.

(2) Paragraph (c) of the definition "principal residence" in section 54 of the Act is replaced by the following:

(c) where the taxpayer is an individual other than a personal trust, unless the particular property was designated by the taxpayer in prescribed form and manner to be the taxpayer's principal residence for the year and no other property has been designated for the purposes of this definition for the year

(i) where the year is before 1982, by the taxpayer, or

(ii) where the year is after 1981,

(A) by the taxpayer,

(B) by a person who was throughout the year the taxpayer's spouse or common-law partner (other than a spouse or common-law partner who was throughout the year living apart from, and was separated under a judicial separation or written separation agreement from, the taxpayer),

(C) by a person who was the taxpayer's child (other than a child who was at any time in the year a married person, a person who is in a common-law partnership or 18 years of age or older), or

(D) where the taxpayer was not at any time in the year a married person, a person who is in a common-law partnership or 18 years of age or older, by a person who was the taxpayer's

(I) mother or father, or

(II) brother or sister, where that brother or sister was not at any time in the year a married person, a person who is in a common-law partnership or 18 years of age or older,

(3) Subsection (1) applies to transactions and events that occur after December 23, 1998.

(4) Subsection (2) applies to dispositions that occur after 1990 except that clauses (c)(ii)(B) to (D) of the definition "principal residence" in section 54 of the Act, as enacted by subsection (2),

shall be read without reference to "or common-law partner" and "a person who is in a common-law partnership" in their application to dispositions made by a taxpayer that occur in a taxation year that is before 2001 and

(a) before 1998; or

(b) after 1997, unless a valid election is made by the taxpayer under section 144 of the *Modernization of Benefits and Obligations Act*, that that Act apply to the taxpayer in respect of one or more taxation years that include the year.

<?[cn]>

38. (1) Subsection 55(1) of the Act is amended by adding the following in alphabetical order:

"specified
corporation"
« *société
déterminée* »

"specified corporation" in relation to a distribution means a distributing corporation

(a) that is a public corporation or a specified wholly-owned corporation of a public corporation,

(b) shares of the capital stock of which are exchanged for shares of the capital stock of another corporation (referred to in this definition and subsection (3.02) as an "acquiror") in an exchange to which the definition "permitted exchange" in this subsection would apply if that definition were read without reference to paragraph (a) and subparagraph (b)(ii) of that definition,

(c) that does not make a distribution, to a corporation that is not an acquiror, after 1998 and before the day that is three years after the day on which the shares of the capital stock of the distributing corporation are exchanged in a transaction described in paragraph (b), and

(d) no acquiror in relation to which makes a distribution after 1998 and before the day that is three years after the day on which the shares of the capital stock of the distributing corporation are exchanged in a transaction described in paragraph (b),

and, for the purposes of paragraphs (c) and (d),

(e) a corporation that is formed by an amalgamation of two or more other corporations is deemed to be the same corporation as, and a continuation of, each of the other corporations, and

(f) where there has been a winding-up of a corporation to which subsection 88(1) applies, the parent is deemed to be the same corporation as, and a continuation of, the subsidiary;

"specified
wholly-owned
corporation"
« filiale à
cent pour cent
déterminée »

"specified wholly-owned corporation" of a public corporation means a corporation all of the outstanding shares of the capital stock of which (other than directors' qualifying shares and shares of a specified class) are held by

(a) the public corporation,

(b) a specified wholly-owned corporation of the public corporation, or

(c) any combination of corporations described in paragraph (a) or (b).

(2) Section 55 of the Act is amended by adding the following after subsection (3.01):

Distribution by
a specified
corporation

(3.02) For the purposes of the definition "distribution" in subsection (1), where the transfer referred to in that definition is by a specified corporation to an acquiror described in the definition "specified corporation" in subsection (1), the references in the definition "distribution" to

(a) "each type of property" shall be read as "property"; and

(b) "property of that type" shall be read as "property".

(3) Paragraph 55(5)(b) of the Act is amended by striking out the word "and" at the end of subparagraph (ii) and by replacing subparagraph (iii) with the following:

(iii) the total of all amounts each of which is an amount required to have been included under this subparagraph as it read in its application to a taxation year that ended before February 28, 2000,

(iv) the amount, if any, by which

(A) 1/2 of the total of all amounts each of which is an amount required by paragraph 14(1)(b) to be included in computing the corporation's income in respect of a business carried on by the corporation for a taxation year that is included in the period and that ended after February 27, 2000 and before October 18, 2000,

exceeds

(B) where the corporation has deducted an amount under subsection 20(4.2) in respect of a debt established by it to have become a bad debt in a taxation year that is included in the period and that ended after February 27, 2000 and before October 18, 2000, or has an allowable capital loss for such a year because of the application of subsection 20(4.3), the amount determined by the formula

$$V + W$$

where

V is 1/2 of the value determined for A under subsection 20(4.2) in respect of the corporation for the last such taxation year that ended in the period, and

W is 1/3 of the value determined for B under subsection 20(4.2) in respect of the corporation for the last such taxation year that ended in the period, and

(C) in any other case, nil, and

(v) the amount, if any, by which

(A) the total of all amounts each of which is an amount required by paragraph 14(1)(b) to be included in computing the corporation's income in respect of a business carried on by the corporation for a taxation year that is included in the period and that ends after October 17, 2000,

exceeds

(B) where the corporation has deducted an amount under subsection 20(4.2) in respect of a debt established by it to have become a bad debt in a taxation year that is included in the period and that ends after October 17, 2000, or has an allowable capital loss for such a year because of the application of subsection 20(4.3), the amount determined by the formula

$$X + Y$$

where

X is the value determined for A under subsection 20(4.2) in respect of the corporation for the last such taxation year that ended in the period, and

Y is 1/3 of the value determined for B under subsection 20(4.2) in respect of the corporation for the last such taxation year that ended in the period, and

(C) in any other case, nil;

(4) The portion of paragraph 55(5)(e) of the French version of the Act before subparagraph (i) is replaced by the following:

e) pour déterminer si des personnes sont liées entre elles, si une personne est un actionnaire déterminé d'une société et si le contrôle d'une société a été acquis par une personne ou un groupe de personnes, les règles suivantes s'appliquent :

(5) Subparagraph 55(5)(e)(iv) of the Act is replaced by the following:

(iv) this Act shall be read without reference to subsection 251(3) and paragraph 251(5)(b); and

(6) Subsections (1) and (2) apply to transfers that occur after 1998.

(7) Subsection (3) applies in respect of taxation years that end after February 27, 2000.

(8) Subsections (4) and (5) apply to dividends that are received after November 1999, other than dividends received as part of a transaction or event, or a series of transactions or events, that was required before December 1, 1999 to be carried out pursuant to a written agreement made before that day.

39. (1) The portion of paragraph 56(1)(n) of the Act after subparagraph (i) is replaced by the following:

exceeds

(ii) the taxpayer's scholarship exemption for the year computed under subsection (3);

(2) Section 56 of the Act is amended by adding the following after subsection (2):

Exemption for
scholarships,
fellowships,
bursaries and
prizes

(3) For the purpose of subparagraph (1)(n)(ii), a taxpayer's scholarship exemption for a taxation year is the greatest of

(a) \$500,

(b) the lesser of

(i) \$3,000 and

(ii) the total of all amounts each of which is the amount included under subparagraph (1)(n)(i) in computing the taxpayer's income for the year in respect of a scholarship, fellowship or bursary received in connection with the taxpayer's enrolment in an educational program in respect of which an amount may be deducted under subsection 118.6(2) in computing the taxpayer's tax payable under this Part for the year, and

(c) the total of all amounts each of which is the lesser of

(i) the amount included under subparagraph (1)(n)(i) in computing the taxpayer's income for the year in respect of a scholarship, fellowship, bursary or prize that is to be used by the taxpayer in the production of a literary, dramatic, musical or artistic work, and

(ii) the total of all amounts each of which is an expense incurred by the taxpayer in the year for the purpose of fulfilling the conditions under which the amount described in subparagraph (i) was received, other than

(A) personal or living expenses of the taxpayer (except expenses in respect of travel, meals and lodging incurred by

the taxpayer in the course of fulfilling those conditions and while absent from the taxpayer's usual place of residence for the period to which the scholarship, fellowship, bursary or prize, as the case may be, relates),

(B) expenses for which the taxpayer is entitled to be reimbursed, and

(C) expenses that are otherwise deductible in computing the taxpayer's income.

(3) Subsections (1) and (2) apply to the 2000 and subsequent taxation years.

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

Consideration
for foreign
resource
property

59. (1) Where a taxpayer has disposed of a foreign resource property, there shall be included in computing the taxpayer's income for a taxation year the amount, if any, by which

(a) the portion of the taxpayer's proceeds of disposition from the disposition of the property that becomes receivable in the year

exceeds

(b) the total of

(i) all amounts each of which is an outlay or expense made or incurred by the taxpayer for the purpose of making the disposition that was not otherwise deductible for the purposes of this Part, and

(ii) where the property is a foreign resource property in respect of a country, the amount designated under this subparagraph in prescribed form filed with the taxpayer's return of income for the year in respect of the disposition.

Partnerships

(1.1) Where a taxpayer is a member of a partnership in a fiscal period of the partnership, the taxpayer's share of the amount that would be included under subsection (1) in respect of a disposition of a foreign resource property in computing the partnership's income for a taxation year if the partnership were a person, the

fiscal period were a taxation year, subsection (1) were read without reference to subparagraph (1)(b)(ii) and section 96 were read without reference to paragraph 96(1)(d) is deemed to be proceeds of disposition that become receivable by the taxpayer at the end of the fiscal period in respect of a disposition of the property by the taxpayer.

(2) Subsection 59(3.2) of the Act is amended by adding the following after paragraph (c):

(c.1) any amount referred to in subsection 66.21(3);

(3) Subsection 59(5) of the Act is replaced by the following:

Definition of
"proceeds of
disposition"

(5) In this section, "proceeds of disposition" has the meaning assigned by section 54.

(4) Subsection 59(1) of the Act, as enacted by subsection (1), and subsection (2) apply to taxation years that begin after 2000.

(5) Subsection 59(1.1) of the Act, as enacted by subsection (1), applies to fiscal periods that begin after 2000.

(6) Subsection (3) applies to transactions and events that occur after December 23, 1998.

41. (1) Section 60 of the Act is amended by adding the following after paragraph (d):

CPP/QPP
contributions
on self-
employed
earnings

(e) 1/2 of the lesser of

(i) the total of all amounts each of which is an amount payable by the taxpayer in respect of self-employed earnings for the year as a contribution under the *Canada Pension Plan* or under a provincial pension plan within the meaning assigned by section 3 of that Act, and

(ii) the maximum amount of such contributions payable by the taxpayer for the year under the plan;

(2) Subsection (1) applies to the 2001 and subsequent taxation years.

42. (1) Paragraph 63(1)(a) of the Act is replaced by the following:

(a) by the taxpayer, where the taxpayer is described in subsection (2) and the supporting person of the child for the year is a person described in clause (i)(D) of the description of C in the formula in that subsection, or

(2) Subparagraph 63(1)(e)(ii) of the Act is replaced by the following:

(ii) the total of all amounts each of which is the annual child care expense amount in respect of an eligible child of the taxpayer for the year

(3) The formula in paragraph 63(2)(b) of the Act is replaced by the following:

$$A \times C$$

(4) The descriptions of A and B in paragraph 63(2)(b) of the Act are replaced by the following:

A is the total of all amounts each of which is the periodic child care expense amount in respect of an eligible child of the taxpayer for the year, and

(5) The formula in paragraph 63(2.3)(c) of the Act is replaced by the following:

$$A \times C$$

(6) The descriptions of A and B in paragraph 63(2.3)(c) of the Act are replaced by the following:

A is the total of all amounts each of which is the periodic child care expense amount in respect of an eligible child of the taxpayer for the year, and

(7) Paragraph (c) of the definition "child care expense" in subsection 63(3) of the Act is replaced by the following:

(c) any such expenses paid in the year for a child's attendance at a boarding school or camp to the extent that the total of those expenses exceeds the product obtained when the periodic child care expense amount in respect of the child for the year

is multiplied by the number of weeks in the year during which the child attended the school or camp, and

(8) Paragraph (b) of the definition "earned income" in subsection 63(3) of the Act is replaced by the following:

(b) all amounts that are included, or that would, but for paragraph 81(1)(a) or subsection 81(4), be included, because of section 6 or 7 or paragraph 56(1)(n), (o) or (r), in computing the taxpayer's income,

(9) Subsection 63(3) of the Act is amended by adding the following in alphabetical order:

"annual child
care expense
amount"
« *montant
annuel de frais
de garde
d'enfants* »

"annual child care expense amount", in respect of an eligible child of a taxpayer for a taxation year, means

(a) \$10,000, where the child is a person in respect of whom an amount may be deducted under section 118.3 in computing a taxpayer's tax payable under this Part for the year, and

(b) where the child is not a person referred to in paragraph (a),

(i) \$7,000, where the child is under 7 years of age at the end of the year, and

(ii) \$4,000, in any other case;

"periodic child
care expense
amount"
« *montant
périodique de
frais de garde
d'enfants* »

"periodic child care expense amount", in respect of an eligible child of a taxpayer for a taxation year, means 1/40 of the annual child care expense amount in respect of the child for the year;

(10) Subsections (1) and (8) apply to the 1998 and subsequent taxation years.

(11) Subsections (2) to (7) and (9) apply to the 2000 and subsequent taxation years.

43. (1) Subparagraph (i) of the description of A in paragraph 64(a) of the Act is amended by striking out the word "or" at the end of clause (B) and by adding the following after clause (B):

(C) attend a designated educational institution or a secondary school at which the taxpayer is enrolled in an educational program, or

(2) Paragraph 64(b) of the Act is replaced by the following:

(b) 2/3 of the total of

(i) the total of all amounts each of which is

(A) an amount included under section 5, 6 or 7 or paragraph 56(1)(n), (o) or (r) in computing the taxpayer's income for the year, or

(B) the taxpayer's income for the year from a business carried on either alone or as a partner actively engaged in the business, and

(ii) where the taxpayer is in attendance at a designated educational institution or a secondary school at which the taxpayer is enrolled in an educational program, the least of

(A) \$15,000,

(B) \$375 times the number of weeks in the year during which the taxpayer is in attendance at the institution or school, and

(C) the amount, if any, by which the amount that would, if this Act were read without reference to this section, be the taxpayer's income for the year exceeds the total determined under subparagraph (i) in respect of the taxpayer for the year.

(3) Subsections (1) and (2) apply to the 2000 and subsequent taxation years.

44. (1) Subparagraph 66(4)(a)(i) of the Act is replaced by the following:

(i) the total of the foreign exploration and development expenses incurred by the taxpayer

(A) before the end of the year,

(B) at a time at which the taxpayer was resident in Canada, and

(C) where the taxpayer became resident in Canada before the end of the year, after the last time (before the end of the year) that the taxpayer became resident in Canada,

(2) The portion of paragraph 66(4)(b) of the Act before subparagraph (ii) is replaced by the following:

(b) of that total, the greater of

(i) the amount, if any, claimed by the taxpayer not exceeding 10% of the amount determined under paragraph (a) in respect of the taxpayer for the year, and

(3) Subparagraph 66(4)(b)(ii) of the Act is replaced by the following:

(ii) the total of

(A) the part of the taxpayer's income for the year, determined without reference to this subsection and subsection 66.21(4), that can reasonably be regarded as attributable to

(I) the production of petroleum or natural gas from natural accumulations outside Canada or from oil or gas wells outside Canada, or

(II) the production of minerals from mines outside Canada,

(B) the taxpayer's income for the year from royalties in respect of a natural accumulation of petroleum or natural gas outside Canada, an oil or gas well outside Canada or a mine outside Canada, determined without reference to this subsection and subsection 66.21(4), and

(C) all amounts each of which is an amount, in respect of a foreign resource property that has been disposed of by the taxpayer, equal to the amount, if any, by which

(I) the amount included in computing the taxpayer's income for the year by reason of subsection 59(1) in respect of the disposition

exceeds

(II) the total of all amounts each of which is that portion of an amount deducted under subsection 66.7(2) in computing the taxpayer's income for the year that

1. can reasonably be considered to be in respect of the foreign resource property, and

2. cannot reasonably be considered to have reduced the amount otherwise determined under clause (A) or (B) in respect of the taxpayer for the year.

(4) Section 66 of the Act is amended by adding the following after subsection (4):

Country-by-
country FEDE
allocations

(4.1) For greater certainty, the portion of an amount deducted under subsection (4) in computing a taxpayer's income for a taxation year that can reasonably be considered to be in respect of specified foreign exploration and development expenses of the taxpayer in respect of a country is considered to apply to a source in that country.

Method of
allocation

(4.2) For the purpose of subsection (4.1), where a taxpayer has incurred specified foreign exploration and development expenses in respect of two or more countries, an allocation to each of those countries for a taxation year shall be determined in a manner that is

(a) reasonable having regard to all the circumstances, including the level and timing of

(i) the taxpayer's specified foreign exploration and development expenses in respect of the country, and

(ii) the profits or gains to which those expenses relate; and

(b) not inconsistent with the allocation made under subsection (4.1) for the preceding taxation year.

FEDE deductions
where change of

individual's
residence

(4.3) Where at any time in a taxation year an individual becomes or ceases to be resident in Canada,

(a) subsection (4) applies to the individual as if the year were the period or periods in the year throughout which the individual was resident in Canada; and

(b) for the purpose of applying subsection (4), subsection (13.1) does not apply to the individual for the year.

(5) Subsection 66(5) of the Act is replaced by the following:

Dealers

(5) Subsections (3) and (4) and sections 59, 64, 66.1, 66.2, 66.21, 66.4 and 66.7 do not apply in computing the income for a taxation year of a taxpayer (other than a principal-business corporation) whose business includes trading or dealing in rights, licences or privileges to explore for, drill for or take minerals, petroleum, natural gas or other related hydrocarbons.

(6) The portion of subsection 66(11.4) of the Act after paragraph (c) is replaced by the following:

<?[ip0n,0n]>for the purposes of subsection (4) and sections 66.2, 66.21 and 66.4, except as those provisions apply for the purposes of section 66.7, the property is deemed not to have been acquired by the corporation or partnership before that time and is deemed to have been acquired by it at that time, except that, where the property has been disposed of by it before that time and not reacquired by it before that time, the property is deemed to have been acquired by the corporation or partnership immediately before it disposed of the property.

(7) The portion of subsection 66(12.4) of the Act before paragraph (a) is replaced by the following:

Limitation of
FEDE

(12.4) Where, as a result of a transaction that occurs after May 6, 1974, an amount becomes receivable by a taxpayer at a particular time in a taxation year and the consideration given by the taxpayer for the amount receivable is property (other than a foreign resource property) or services, the original cost of which to the taxpayer can reasonably be regarded as having been primarily foreign exploration and development expenses of the taxpayer (or

would have been so regarded if they had been incurred by the taxpayer after 1971 and the definition "foreign exploration and development expenses" in subsection (15) were read without reference to paragraph (k) of that definition), the following rules apply:

(8) Paragraph 66(12.4)(b) of the Act is replaced by the following:

(b) where the amount receivable exceeds the total of the taxpayer's foreign exploration and development expenses incurred before that time to the extent that those expenses were not deducted or deductible, as the case may be, in computing the taxpayer's income for a preceding taxation year, there shall be included in the amount referred to in paragraph 59(3.2)(a) the amount, if any, by which the amount receivable exceeds the total of

(i) the taxpayer's foreign exploration and development expenses incurred before that time to the extent that those expenses were not deducted or deductible, as the case may be, in computing the taxpayer's income for a preceding taxation year, and

(ii) the amount, designated by the taxpayer in prescribed form filed with the taxpayer's return of income for the year, not exceeding the portion of the amount receivable for which the consideration given by the taxpayer was property (other than a foreign resource property) or services, the original cost of which to the taxpayer can reasonably be regarded as having been primarily

(A) specified foreign exploration and development expenses in respect of a country, or

(B) foreign resource expenses in respect of a country; and

(9) Section 66 of the Act is amended by adding the following after subsection (12.4):

Limitations of
foreign
resource
expenses

(12.41) Where a particular amount described in subsection (12.4) becomes receivable by a taxpayer at a particular time, there shall at that time be included in the value determined for G in the definition "cumulative foreign resource expense" in subsection 66.21(1) in respect of the taxpayer and a country the amount

designated under subparagraph (12.4)(b)(ii) by the taxpayer in respect of the particular amount and the country.

Partnerships

(12.42) For the purposes of subsections (12.4) and (12.41), where a person or partnership is a member of a particular partnership and a particular amount described in subsection (12.4) becomes receivable by the particular partnership in a fiscal period of the particular partnership,

(a) the member's share of the particular amount is deemed to be an amount that became receivable by the member at the end of the fiscal period; and

(b) the amount deemed by paragraph (a) to be an amount receivable by the member is deemed to be an amount

(i) that is described in subsection (12.4) in respect of the member, and

(ii) that has the same attributes for the member as it did for the particular partnership.

(10) Subsection 66(13.1) of the Act is replaced by the following:

Short taxation
year

(13.1) Where a taxpayer has a taxation year that is less than 51 weeks, the amount determined in respect of the year under each of subparagraph (4)(b)(i), paragraph 66.2(2)(c), subparagraph (b)(i) of the definition "global foreign resource limit" in subsection 66.21(1), subparagraph 66.21(4)(a)(i), clause 66.21(4)(a)(ii)(B) and paragraphs 66.4(2)(b) and 66.7(2.3)(a), (4)(a) and (5)(a) shall not exceed that proportion of the amount otherwise determined that the number of days in the year is of 365.

(11) The definitions "original owner" and "predecessor owner" in subsection 66(15) of the Act are replaced by the following:

"original
owner"
« *propriétaire
obligé* »

"original owner" of a Canadian resource property or a foreign resource property means a person

(a) who owned the property and disposed of it to a corporation that acquired it in circumstances in which subsection 29(25) of the *Income Tax Application Rules* or subsection 66.7(1), (2), (2.3), (3), (4) or (5) applies, or would apply if the corporation had continued to own the property, to the corporation in respect of the property, and

(b) who would, but for subsection 66.7(12), (13), (13.1) or (17), as the case may be, be entitled in computing that person's income for a taxation year that ends after that person disposed of the property to a deduction under section 29 of the *Income Tax Application Rules* or subsection (2), (3) or (4), 66.1(2) or (3), 66.2(2), 66.21(4) or 66.4(2) of this Act in respect of expenses described in subparagraph 29(25)(c)(i) or (ii) of that Act, Canadian exploration and development expenses, foreign resource pool expenses, Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses incurred by the person before the person disposed of the property;

"predecessor
owner"
« *propriétaire
antérieur* »

"predecessor owner" of a Canadian resource property or a foreign resource property means a corporation

(a) that acquired the property in circumstances in which subsection 29(25) of the *Income Tax Application Rules* or subsection 66.7(1), (2), (2.3), (3), (4) or (5) applies, or would apply if the corporation had continued to own the property, to the corporation in respect of the property,

(b) that disposed of the property to another corporation that acquired it in circumstances in which subsection 29(25) of the *Income Tax Application Rules* or subsection 66.7(1), (2), (2.3), (3), (4) or (5) applies, or would apply if the other corporation had continued to own the property, to the other corporation in respect of the property, and

(c) that would, but for subsection 66.7(14), (15), (15.1) or (17), as the case may be, be entitled in computing its income for a taxation year ending after it disposed of the property to a deduction under subsection 29(25) of the *Income Tax Application Rules* or subsection 66.7(1), (2), (2.3), (3), (4) or (5) in respect of expenses incurred by an original owner of the property;

(12) Paragraph (c) of the definition "Canadian resource property" in subsection 66(15) of the Act is replaced by the following:

(c) any oil or gas well in Canada or any real property in Canada the principal value of which depends on its petroleum or natural gas content (but not including any depreciable property),

(13) Paragraph (f) of the definition "Canadian resource property" in subsection 66(15) of the Act is replaced by the following:

(f) any real property in Canada the principal value of which depends on its mineral resource content (but not including any depreciable property), or

(14) Paragraph (b) of the definition "foreign exploration and development expenses" in subsection 66(15) of the Act is replaced by the following:

(b) any expense incurred by the taxpayer for the purpose of determining the existence, location, extent or quality of a mineral resource outside Canada, including any expense incurred in the course of

(i) prospecting,

(ii) carrying out geological, geophysical or geochemical surveys,

(iii) drilling by rotary, diamond, percussion or other method, or

(iv) trenching, digging test pits and preliminary sampling,

(15) The definition "foreign exploration and development expenses" in subsection 66(15) of the Act is amended by striking out the word "or" at the end of paragraph (h) and by adding the following after paragraph (i):

(j) an expenditure that is the cost, or any part of the cost, to the taxpayer of any depreciable property of a prescribed class that was acquired after December 21, 2000,

(k) foreign resource expenses in respect of a country, or

(l) an expenditure made after February 27, 2000 by the taxpayer unless the expenditure was made

(i) pursuant to an agreement in writing made by the taxpayer before February 28, 2000,

(ii) for the acquisition of foreign resource property by the taxpayer, or

(iii) for the purpose of

(A) enhancing the value of foreign resource property that the taxpayer owned at the time the expenditure was incurred or that the taxpayer had a reasonable expectation of owning after that time, or

(B) assisting in evaluating whether a foreign resource property is to be acquired by the taxpayer;

(16) Subsection 66(15) of the Act is amended by adding the following in alphabetical order:

"specified
foreign
exploration and
development
expense"
« *frais*
d'exploration
et
d'aménagement à
l'étranger
déterminés »

"specified foreign exploration and development expense" of a taxpayer in respect of a country (other than Canada) means an amount that is included in the taxpayer's foreign exploration and development expenses and that is

(a) a drilling or exploration expense, including any general geological or geophysical expense, incurred by the taxpayer on or in respect of exploring or drilling for petroleum or natural gas in that country,

(a.1) an expense incurred by the taxpayer after December 21, 2000 (otherwise than pursuant to an agreement in writing made before December 22, 2000) for the purpose of determining the existence, location, extent or quality of a mineral resource in that country, including any expense incurred in the course of

(i) prospecting,

(ii) carrying out geological, geophysical or geochemical surveys,

(iii) drilling by rotary, diamond, percussion or other methods, or

(iv) trenching, digging test pits and preliminary sampling,

(b) a prospecting, exploration or development expense incurred by the taxpayer before December 22, 2000 (or after December 21, 2000 pursuant to an agreement in writing made before December 22, 2000) in searching for minerals in that country,

(c) the cost to the taxpayer of the taxpayer's foreign resource property in respect of that country,

(d) an annual payment made by the taxpayer in a taxation year of the taxpayer for the preservation of a foreign resource property in respect of that country,

(e) an amount deemed by subsection 21(2) or (4) to be a foreign exploration and development expense incurred by the taxpayer, to the extent that it can reasonably be considered to relate to an amount that, without reference to this paragraph and paragraph (f), would be a specified foreign exploration and development expense in respect of that country, or

(f) subject to section 66.8, the taxpayer's share of the specified foreign exploration and development expenses of a partnership incurred in respect of that country in a fiscal period of the partnership if, at the end of that period, the taxpayer was a member of the partnership.

(17) Subsection 66(15.1) of the Act is replaced by the following:

Other
definitions

(15.1) The definitions in subsections 66.1(6), 66.2(5), 66.21(1), 66.4(5) and 66.5(2) apply in this section.

(18) Subsection 66(18) of the Act is replaced by the following:

Members of
partnerships

(18) For the purposes of this section, subsection 21(2), sections 59.1 and 66.1 to 66.7, paragraph (d) of the definition "investment expense" in subsection 110.6(1) and the descriptions of C and D in subsection 211.91(1), where a person's share of an outlay or expense made or incurred by a partnership in a fiscal period of the partnership is included in respect of the person under paragraph (d) of the definition "foreign exploration and development

expenses" in subsection (15), paragraph (h) of the definition "Canadian exploration expense" in subsection 66.1(6), paragraph (f) of the definition "Canadian development expense" in subsection 66.2(5), paragraph (e) of the definition "foreign resource expense" in subsection 66.21(1) or paragraph (b) of the definition "Canadian oil and gas property expense" in subsection 66.4(5), the portion of the outlay or expense so included is deemed, except for the purposes of applying the definitions "foreign exploration and development expenses", "Canadian exploration expense", "Canadian development expense", "foreign resource expense" and "Canadian oil and gas property expense" in respect of the person, to be made or incurred by the person at the end of that fiscal period.

(19) Subsection (1) applies to the 1999 and subsequent taxation years except that in its application to the 1999 taxation year, subparagraph 66(4)(a)(i) of the Act, as enacted by subsection (1), shall be read as follows:

(i) the total of the foreign exploration and development expenses incurred by the taxpayer before the end of the year and at a time which the taxpayer was resident in Canada

(20) Subsection (2) applies to the 1995 and subsequent taxation years, except that the portion of paragraph 66(4)(b) of the Act before subparagraph (ii), as enacted by subsection (2), shall be read as follows in respect of cessations of residence that occurred before February 28, 2000:

(b) of that total, the greatest of

(i) the amount, if any, claimed by the taxpayer not exceeding 10% of the amount determined under paragraph (a) in respect of the taxpayer for the year,

(i.1) if the taxpayer ceased to be resident in Canada immediately after the end of the year, the amount, if any, claimed by the taxpayer not exceeding the amount determined under paragraph (a) in respect of the taxpayer for the year, and

(21) Subsections (3) and (5) to (8), subsection 66(12.41) of the Act, as enacted by subsection (9), subsections (10) to (13) and paragraph (k) of the definition "foreign exploration and development expenses" in subsection 66(15) of the Act, as enacted by subsection (15), apply to taxation years that begin after 2000.

(22) Subsections 66(4.1) and (4.2) of the Act, as enacted by subsection (4), apply to taxation years of a taxpayer that begin after the earlier of

(a) December 31, 1999; and

(b) where, for the purposes of subsection 117(26), a date is designated in writing by the taxpayer and the designation is filed with the Minister of National Revenue on or before the taxpayer's filing-due date for the taxpayer's taxation year that includes the day on which this Act receives royal assent, the later of

(i) the date so designated, and

(ii) December 31, 1994.

(23) Subsection 66(4.3) of the Act, as enacted by subsection (4), applies to the 1998 and subsequent taxation years.

(24) Subsection 66(12.42) of the Act, as enacted by subsection (9), and subsection (18) apply to fiscal periods that begin after 2000.

(25) Subsection (14) applies to expenses incurred after December 21, 2000, other than expenses incurred pursuant to an agreement in writing made before December 22, 2000.

(26) Paragraph (j) of the definition "foreign exploration and development expenses" in subsection 66(15) of the Act, as enacted by subsection (15), and subsection (17) apply after 2000.

(27) Paragraph (l) of the definition "foreign exploration and development expenses" in subsection 66(15) of the Act, as enacted by subsection (15), applies after February 27, 2000.

(28) Subsection (16) applies after 1994.

45. (1) Subparagraph (d)(i) of the definition "Canadian exploration expense" in subsection 66.1(6) of the Act is replaced by the following:

(i) the drilling or completing of the well resulted in the discovery that a natural underground reservoir contains petroleum or natural gas, where

(A) before the time of the discovery, no person or partnership had discovered that the reservoir contained either petroleum or natural gas, and

(B) the discovery occurred at any time before six months after the end of the year,

(2) The definition "Canadian exploration expense" in subsection 66.1(6) of the Act is amended by adding the following after paragraph (k):

(k.1) an expense that is the cost, or any part of the cost, to the taxpayer of any depreciable property of a prescribed class that was acquired after 1987,

(3) The description of L in the definition "cumulative Canadian exploration expense" in subsection 66.1(6) of the Act is replaced by the following:

L is that portion of the total of all amounts each of which was deducted by the taxpayer under subsection 127(5) or (6) for a taxation year that ended before that time and that can reasonably be attributed to a qualified Canadian exploration expenditure or a flow-through mining expenditure (within the meaning assigned by subsection 127(9)) made in a preceding taxation year, and

(4) Paragraph 66.1(9)(a) of the Act is replaced by the following:

(a) the drilling or completing of an oil or gas well resulted in the discovery that a natural underground reservoir contains petroleum or natural gas and, before the time of the discovery, no person or partnership had discovered that the reservoir contained either petroleum or natural gas,

(5) Subsections (1) and (4) apply to expenses incurred after March 1987.

(6) Subsection (2) applies to the 1988 and subsequent taxation years.

(7) Subsection (3) applies after October 17, 2000.

46. (1) The definition "Canadian development expense" in subsection 66.2(5) of the Act is amended by adding the following after paragraph (i):

(i.1) an expense that is the cost, or any part of the cost, to the taxpayer of any depreciable property of a prescribed class that was acquired after 1987,

(2) Subsection (1) applies to the 1988 and subsequent taxation years.

47. (1) The Act is amended by adding the following after section 66.2:

Definitions

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

"adjusted
cumulative
foreign
resource
expense"
« *frais
cumulatifs
rajustés
relatifs
à des
ressources
à l'étranger* »

"adjusted cumulative foreign resource expense" of a taxpayer, in respect of a country, at the end of a taxation year means the total of

(a) the cumulative foreign resource expense of the taxpayer, in respect of that country, at the end of the year; and

(b) the amount, if any, by which

(i) the total determined under paragraph 66.7(13.2)(a) in respect of that country and the taxpayer for the year

exceeds

(ii) the amount that would, but for paragraph (3)(c), be determined under subsection (3) in respect of that country and the taxpayer for the year.

"cumulative
foreign
resource
expense"
« *frais
cumulatifs
relatifs à des
ressources à
l'étranger* »

"cumulative foreign resource expense" of a taxpayer, in respect of a country other than Canada at a particular time, means the amount determined by the formula

$$(A + B + C + D) - (E + F + G + H + I + J)$$

where

A is the total of all foreign resource expenses, in respect of that country, made or incurred by the taxpayer

(a) before the particular time, and

(b) at a time (in this definition referred to as a "resident time")

(i) at which the taxpayer was resident in Canada, and

(ii) where the taxpayer became resident in Canada before the particular time, that is after the last time (before the particular time) that the taxpayer became resident in Canada;

B is the total of all amounts required to be included in computing the amount referred to in paragraph 59(3.2)(c.1), in respect of that country, for taxation years that ended before the particular time and at a resident time;

C is the total of all amounts referred to in the description of F or G that are established by the taxpayer to have become a bad debt before the particular time and at a resident time;

D is the total of all specified amounts determined under subsection 66.7(13.2), in respect of the taxpayer and that country, for taxation years that ended before the particular time and at a resident time;

E is the total of all amounts deducted, in computing the taxpayer's income for a taxation year that ended before the particular time and at a resident time, in respect of the taxpayer's cumulative foreign resource expense in respect of that country;

F is the total of all amounts each of which is an amount in respect of a foreign resource property, in respect of that country, (in this description referred to as the "particular property") disposed of by the taxpayer equal to the amount, if any, by which

(a) the amount designated under subparagraph 59(1)(b)(ii) by the taxpayer in respect of the portion of the proceeds of that disposition that became receivable before the particular time and at a resident time

exceeds

(b) the amount, if any, by which

(i) the total of all amounts that would be determined under paragraph 66.7(2.3)(a), immediately before the time (in this paragraph referred to as the "relevant time") when such proceeds of disposition became receivable, in respect of the taxpayer, that country and an original owner of the particular property (or of any other property acquired by the taxpayer with the particular property in circumstances to which subsection 66.7(2.3) applied and in respect of which the proceeds of disposition became receivable by the taxpayer at the relevant time) if

(A) amounts that became receivable at or after the relevant time were not taken into account,

(B) paragraph 66.7(2.3)(a) were read without reference to "30% of", and

(C) no reduction under subsection 80(8) at or after the relevant time were taken into account

exceeds the total of

(ii) all amounts that would be determined under paragraph 66.7(2.3)(a) at the relevant time in respect of the taxpayer, that country and an original owner of the particular property (or of that other property) if

(A) amounts that became receivable after the relevant time were not taken into account,

(B) paragraph 66.7(2.3)(a) were read without reference to "30% of", and

(C) no reduction under subsection 80(8) at or after the relevant time were taken into account, and

(iii) the portion of the amount otherwise determined under this paragraph that was otherwise applied to reduce the amount otherwise determined under this description;

G is the total of all amounts, in respect of that country, each of which is an amount included in the amount determined under this description by reason of subsection 66(12.41) that became receivable by the taxpayer before the particular time and at a resident time;

- H is the total of all amounts each of which is an amount received before the particular time and at a resident time on account of any amount referred to in the description of C;
- I is the total of all amounts each of which is an amount by which the cumulative foreign resource expense of the taxpayer, in respect of that country, is required, by reason of subsection 80(8), to be reduced at or before the particular time and at a resident time; and
- J is the total of all amounts each of which is an amount that is required to be deducted, before the particular time and at a resident time, under paragraph 66.7(13.1)(a) in computing the taxpayer's cumulative foreign resource expense.

"foreign
resource
expense"
« *frais
relatifs à
des ressources
à l'étranger* »

"foreign resource expense" of a taxpayer, in respect of a country other than Canada, means

(a) any drilling or exploration expense, including any general geological or geophysical expense, incurred by the taxpayer on or in respect of exploring or drilling for petroleum or natural gas in that country,

(b) any expense incurred by the taxpayer for the purpose of determining the existence, location, extent or quality of a mineral resource in that country, including any expense incurred in the course of

(i) prospecting,

(ii) carrying out geological, geophysical or geochemical surveys,

(iii) drilling by rotary, diamond, percussion or other methods, or

(iv) trenching, digging test pits and preliminary sampling,

(c) the cost to the taxpayer of any of the taxpayer's foreign resource property in respect of that country,

(d) any annual payment made by the taxpayer for the preservation of a foreign resource property in respect of that country, and

(e) subject to section 66.8, the taxpayer's share of an expense, cost or payment referred to in any of paragraphs (a) to (d) that is made or incurred by a partnership in a fiscal period of the partnership that begins after 2000 if, at the end of that period, the taxpayer was a member of the partnership

but does not include

(f) an expenditure that is the cost, or any part of the cost, to the taxpayer of any depreciable property of a prescribed class,

(g) an expenditure incurred at any time after the commencement of production from a foreign resource property of the taxpayer in order to evaluate the feasibility of a method of recovery of petroleum, natural gas or related hydrocarbons from the portion of a natural reservoir to which the foreign resource property relates,

(h) an expenditure (other than a drilling expense) incurred at any time after the commencement of production from a foreign resource property of the taxpayer in order to assist in the recovery of petroleum, natural gas or related hydrocarbons from the portion of a natural reservoir to which the foreign resource property relates,

(i) an expenditure, incurred at any time, that relates to the injection of any substance to assist in the recovery of petroleum, natural gas or related hydrocarbons from a natural reservoir,

(j) an expenditure incurred by the taxpayer, unless the expenditure was made

(i) for the acquisition of foreign resource property by the taxpayer, or

(ii) for the purpose of

(A) enhancing the value of foreign resource property that the taxpayer owned at the time the expenditure was incurred or that the taxpayer had a reasonable expectation of owning after that time, or

(B) assisting in evaluating whether a foreign resource property is to be acquired by the taxpayer, or

(k) the taxpayer's share of any cost or expenditure referred to in any of paragraphs (f) to (j) that is incurred by a partnership.

"foreign
resource
income"
« revenu
provenant de
ressources à
l'étranger »

"foreign resource income" of a taxpayer for a taxation year, in respect of a country other than Canada, means the total of

(a) that part of the taxpayer's income for the year, determined without reference to subsections (4) and 66(4), that is reasonably attributable to

(i) the production of petroleum or natural gas from natural accumulations of petroleum or natural gas in that country or from oil or gas wells in that country, or

(ii) the production of minerals from mines in that country;

(b) the taxpayer's income for the year from royalties in respect of a natural accumulation of petroleum or natural gas in that country, an oil or gas well in that country or a mine in that country, determined without reference to subsections (4) and 66(4); and

(c) all amounts each of which is an amount, in respect of a foreign resource property in respect of that country that has been disposed of by the taxpayer, equal to the amount, if any, by which

(i) the amount included in computing the taxpayer's income for the year by reason of subsection 59(1) in respect of that disposition,

exceeds

(ii) the total of all amounts each of which is that portion of an amount deducted under subsection 66.7(2) in computing the taxpayer's income for the year that

(A) can reasonably be considered to be in respect of the foreign resource property, and

(B) cannot reasonably be considered to have reduced the amount otherwise determined under paragraph (a) or (b) in respect of the taxpayer for the year.

"foreign
resource loss"
« *perte
résultant de
ressources à
l'étranger* »

"foreign resource loss" of a taxpayer for a taxation year in respect of a country other than Canada means the taxpayer's loss for the year in respect of the country determined in accordance with the definition "foreign resource income" with such modifications as the circumstances require.

"global foreign
resource limit"
« *limite
globale
des frais rela-
tifs à des
ressources
à l'étranger* »

"global foreign resource limit" of a taxpayer for a taxation year means the amount that is the lesser of

(a) the amount, if any, by which

(i) the amount determined under subparagraph 66(4)(b)(ii) in respect of the taxpayer for the year

exceeds the total of

(ii) the total of all amounts each of which is the maximum amount that the taxpayer would be permitted to deduct, in respect of a country, under subsection (4) in computing the taxpayer's income for the year if, in its application to the year, subsection (4) were read without reference to paragraph (4)(b), and

(iii) the amount deducted for the year under subsection 66(4) in computing the taxpayer's income for the year; and

(b) the amount, if any, by which

(i) 30% of the total of all amounts each of which is, at the end of the year, the taxpayer's adjusted cumulative foreign resource expense in respect of a country,

exceeds

(ii) the total described in subparagraph (a)(ii).

Application of
subsection
66(15)

(2) The definitions in subsection 66(15) apply in this section.

Amount to be
included in
income

(3) For the purpose of paragraph 59(3.2)(c.1), the amount referred to in this subsection in respect of a taxpayer for a taxation year is the amount, if any, by which

(a) the total of all amounts referred to in the descriptions of E to J in the definition "cumulative foreign resource expense" in subsection (1) that are deducted in computing the taxpayer's cumulative foreign resource expense at the end of the year in respect of a country

exceeds the total of

(b) the total of all amounts referred to in the descriptions of A to D in the definition "cumulative foreign resource expense" in subsection (1) that are included in computing the taxpayer's cumulative foreign resource expense at the end of the year in respect of the country, and

(c) the total determined under paragraph 66.7(13.2)(a) for the year in respect of the taxpayer and the country.

Deduction for
cumulative
foreign
resource
expense

(4) In computing a taxpayer's income for a taxation year throughout which the taxpayer is resident in Canada, the taxpayer may deduct the amount claimed by the taxpayer, in respect of a country other than Canada, not exceeding the total of

(a) the greater of

(i) 10% of a particular amount equal to the taxpayer's adjusted cumulative foreign resource expense in respect of the country at the end of the year, and

(ii) the least of

(A) if the taxpayer ceased to be resident in Canada immediately after the end of the year, the particular amount,

(B) if clause (A) does not apply, 30% of the particular amount,

(C) the amount, if any, by which the taxpayer's foreign resource income for the year in respect of the country exceeds the portion of the amount, deducted under subsection 66(4) in computing the taxpayer's income for the year, that applies to a source in the country, and

(D) the amount, if any, by which

(I) the total of all amounts each of which is the taxpayer's foreign resource income for the year in respect of a country

exceeds the total of

(II) all amounts each of which is the taxpayer's foreign resource loss for the year in respect of a country, and

(III) the amount deducted under subsection 66(4) in computing the taxpayer's income for the year, and

(b) the lesser of

(i) the amount, if any, by which the particular amount exceeds the amount determined for the year under paragraph (a) in respect of the taxpayer, and

(ii) that portion of the taxpayer's global foreign resource limit for the year that is designated for the year by the taxpayer, in respect of that country and no other country, in prescribed form filed with the Minister with the taxpayer's return of income for the year.

Individual
changing
residence

(5) Where at any time in a taxation year an individual becomes or ceases to be resident in Canada,

(a) subsection (4) applies to the individual as if the year were the period or periods in the year throughout which the individual was resident in Canada; and

(b) for the purpose of applying this section, subsection 66(13.1) does not apply to the individual for the year.

(2) Subsection (1) applies to taxation years that begin after 2000.

48. (1) The definitions "disposition" and "proceeds of disposition" in subsection 66.4(5) of the Act are replaced by the following:

"proceeds of
disposition"
« *produit de
disposition* »

"proceeds of disposition" has the meaning assigned by section 54.

(2) Subsection (1) applies to transactions and events that occur after December 23, 1998.

49. (1) Subparagraph 66.7(2)(a)(i) of the Act is replaced by the following:

(i) the foreign exploration and development expenses incurred by the original owner before the original owner disposed of the particular property to the extent that those expenses were incurred when the original owner was resident in Canada, were not otherwise deducted in computing the successor's income for the year, were not deducted in computing the successor's income for a preceding taxation year and were not deductible by the original owner, nor deducted by any predecessor owner of the particular property, in computing income for any taxation year

(2) Section 66.7 of the Act is amended by adding the following after subsection (2):

Country-by-
country
successor FEDE
allocations

(2.1) For greater certainty, the portion of an amount deducted under subsection (2) in computing a taxpayer's income for a

taxation year that can reasonably be considered to be in respect of specified foreign exploration and development expenses of the taxpayer in respect of a country is considered to apply to a source in that country.

Method of
allocation

(2.2) For the purpose of subsection (2.1), where a taxpayer has incurred specified foreign exploration and development expenses in respect of two or more countries, an allocation to each of those countries for a taxation year shall be determined in a manner that is

(a) reasonable having regard to all the circumstances, including the level and timing of

(i) the taxpayer's specified foreign exploration and development expenses in respect of the country, and

(ii) the profits or gains to which those expenses relate; and

(b) not inconsistent with the allocation made under subsection (2.1) for the preceding taxation year.

Successor of
foreign
resource
expenses

(2.3) Subject to subsections (6) and (8), where a corporation (in this subsection referred to as the "successor") acquired a particular foreign resource property in respect of a country (whether by way of a purchase, amalgamation, merger, winding-up or otherwise), there may be deducted by the successor in computing its income for a taxation year an amount not exceeding the total of all amounts each of which is an amount determined in respect of an original owner of the particular property that is the lesser of

(a) 30% of the amount, if any, by which

(i) the cumulative foreign resource expense, in respect of the country, of the original owner determined immediately after the disposition of the particular property by the original owner to the extent that it has not been

(A) deducted by the original owner or any predecessor owner of the particular property in computing income for any taxation year,

(B) otherwise deducted in computing the income of the successor for the year, or

(C) deducted by the successor in computing its income for any preceding taxation year

exceeds the total of

(ii) all amounts each of which is an amount (other than any portion of the amount that can reasonably be considered to result in a reduction of the amount otherwise determined under this paragraph in respect of another original owner of a relevant resource property who is not a predecessor owner of a relevant resource property or who became a predecessor owner of a relevant resource property before the original owner became a predecessor owner of a relevant resource property) that became receivable by a predecessor owner of the particular property, or by the successor in the year or a preceding taxation year, and that

(A) was included by the predecessor owner or the successor in computing an amount determined under paragraph (a) of the description of F in the definition "cumulative foreign resource expense" in subsection 66.21(1) at the end of the year, and

(B) can reasonably be regarded as attributable to the disposition of a property (in this subparagraph referred to as a "relevant resource property") that is

(I) the particular property, or

(II) another foreign resource property in respect of the country that was acquired from the original owner with the particular property by the successor or a predecessor owner of the particular property, and

(iii) all amounts each of which is an amount by which the amount described in this paragraph is required by reason of subsection 80(8) to be reduced at or before the end of the year, and

(b) the amount, if any, by which the total of

(i) the part of the successor's income for the year that can reasonably be regarded as attributable to production from the particular property, computed as if no deduction were permitted under section 29 of the *Income Tax Application Rules*, this section or any of sections 65 to 66.5, except that, where the successor acquired the particular property from the original

owner at any time in the year (otherwise than by way of an amalgamation or merger or solely by reason of the application of paragraph (10)(c)) and did not deal with the original owner at arm's length at that time, the amount determined under this subparagraph is deemed to be nil, and

(ii) unless the amount determined under subparagraph (i) is nil by reason of the exception provided under that subparagraph, the lesser of

(A) the total of all amounts each of which is the amount designated by the successor for the year in respect of a Canadian resource property owned by the original owner immediately before being acquired with the particular property by the successor or a predecessor owner of the particular property, not exceeding the amount included in the successor's income for the year, computed as if no deduction were permitted under section 29 of the *Income Tax Application Rules*, this section or any of sections 65 to 66.5, that can reasonably be regarded as being attributable to the production from the Canadian resource property, and

(B) the amount, if any, by which 10% of the amount described in paragraph (a) for the year, in respect of the original owner, exceeds the total of all amounts each of which would, but for this subparagraph, clause (2)(b)(iii)(B) and subparagraph (10)(h)(vi), be determined under this paragraph for the year in respect of the particular property or other foreign resource property, in respect of the country, owned by the original owner immediately before being acquired with the particular property by the successor or by a predecessor owner of the particular property

exceeds the total of

(iii) all other amounts each of which is an amount deducted for the year under this subsection or subsection (2) that can reasonably be regarded as attributable to

(A) the part of its income for the year described in subparagraph (i) in respect of the particular property, or

(B) a part of its income for the year described in clause (ii)(A) in respect of which an amount is designated by the successor under clause (ii)(A), and

(iv) all amounts added by reason of subsection 80(13) in computing the amount determined under subparagraph (i),

and income in respect of which an amount is designated under clause (b)(ii)(A) is, for the purposes of clause 29(25)(d)(i)(B) of the *Income Tax Application Rules*, clauses (1)(b)(i)(C), (3)(b)(i)(C), (4)(b)(i)(B) and (5)(b)(i)(B) and subparagraph (10)(g)(iii), deemed not to be attributable to production from a Canadian resource property.

(3) The portion of subsection 66.7(8) of the Act before paragraph (a) is replaced by the following:

Application of
subsections (2)
and (2.3)

(8) Subsections (2) and (2.3) apply only to a corporation that has acquired a particular foreign resource property

(4) The portion of subsection 66.7(10) of the Act after paragraph (b) and before paragraph (c) is replaced by the following:

for the purposes of the provisions of the *Income Tax Application Rules* and this Act (other than subsections 66(12.6), (12.601), (12.602), (12.62) and (12.71)) relating to deductions in respect of drilling and exploration expenses, prospecting, exploration and development expenses, Canadian exploration and development expenses, foreign resource pool expenses, Canadian exploration expenses, Canadian development expenses and Canadian oil and gas property expenses (in this subsection referred to as "resource expenses") incurred by the corporation before that time, the following rules apply:

(5) Subsection 66.7(10) of the Act is amended by adding the following after paragraph (e):

(f) the original owner is deemed to have been resident in Canada before that time while the corporation was resident in Canada,

(6) Subparagraphs 66.7(10)(h)(v) and (vi) of the Act are replaced by the following:

(v) for the purposes of determining the amounts under paragraphs (2)(b) and (2.3)(b), to be income from the sources described in subparagraph (iii) or (iv), as the case may be, of the transferee for its taxation year in which that taxation year of the transferor ends, and

(vi) for the purposes of determining the amounts under paragraphs (2)(b) and (2.3)(b), not to be income from the sources described in subparagraph (iii) or (iv), as the case may be, of the transferor for that year,

(7) The portion of subparagraph 66.7(10)(j)(ii) of the Act before clause (A) is replaced by the following:

(ii) for the purposes of clause 29(25)(d)(i)(B) of the *Income Tax Application Rules*, clauses (1)(b)(i)(C) and (2)(b)(i)(B), subparagraph (2.3)(b)(i) and clauses (3)(b)(i)(C), (4)(b)(i)(B) and (5)(b)(i)(B) for a taxation year ending after that time, the lesser of

(8) Section 66.7 of the Act is amended by adding the following after subsection (13):

Reduction of
foreign
resource
expenses

(13.1) Where in a taxation year an original owner of foreign resource properties in respect of a country disposes of all or substantially all of the original owner's foreign resource properties in circumstances to which subsection (2.3) applies,

(a) in determining the cumulative foreign resource expense of the original owner in respect of the country at any time after the time referred to in subparagraph (2.3)(a)(i), there shall be deducted the amount of that cumulative foreign resource expense determined immediately after the disposition; and

(b) for the purpose of paragraph (2.3)(a), the cumulative foreign resource expense of the original owner in respect of the country determined immediately after the disposition that was deducted under subsection 66.21(4) in computing the original owner's income for the year is deemed to be equal to the lesser of

(i) the amount deducted under paragraph (a) in respect of the disposition, and

(ii) the amount, if any, by which

(A) the specified amount determined under subsection (13.2) in respect of the original owner and the country for the year

exceeds

(B) the total of all amounts determined under this paragraph in respect of another disposition of foreign resource property in respect of the country made by the original owner before the disposition and in the year.

Specified
amount –
foreign
resource
expenses

(13.2) Where in a taxation year an original owner of foreign resource properties in respect of a country disposes of all or substantially all of the original owner's foreign resource properties in circumstances to which subsection (2.3) applies, the specified amount in respect of the country and the original owner for the year for the purposes of clause (13.1)(b)(ii)(A) and of determining the value of D in the definition "cumulative foreign resource expense" in subsection 66.21(1) is the lesser of

(a) the total of all amounts each of which is the amount, if any, by which

(i) an amount deducted under paragraph (13.1)(a) in respect of a disposition in the year by the original owner of foreign resource property in respect of the country

exceeds

(ii) the amount, if any, designated by the original owner in the prescribed form filed with the Minister within six months after the end of the year in respect of an amount described under subparagraph (i); and

(b) the total of

(i) the amount claimed under subsection 66.21(4) by the original owner in respect of the country for the year, and

(ii) the amount that would, but for paragraph 66.21(3)(c), be determined under subsection 66.21(3) in respect of the country and the original owner for the year.

(9) Section 66.7 of the Act is amended by adding the following after subsection (15):

Disposal of
foreign
resource
properties –
subsection
(2.3)

(15.1) Where in a taxation year a predecessor owner of foreign resource properties disposes of foreign resource properties to a corporation in circumstances to which subsection (2.3) applies,

(a) for the purpose of applying that subsection to the predecessor owner in respect of its acquisition of any foreign resource properties owned by it immediately before the disposition, it is deemed, after the disposition, never to have acquired any such properties except for the purposes of

(i) where the predecessor owner and the corporation dealt with each other at arm's length at the time of the disposition or the disposition was by way of an amalgamation or merger, determining an amount deductible under subsection (2.3) for the year, and

(ii) determining the value of F in the definition "cumulative foreign resource expense" in subsection 66.21(1); and

(b) where the corporation or another corporation acquires any of the properties on or after the disposition in circumstances to which subsection (2.3) applies, amounts that become receivable by the predecessor owner after the disposition in respect of foreign resource properties retained by it at the time of the disposition are, for the purposes of applying subsection (2.3) to the corporation or the other corporation in respect of the acquisition, deemed not to have become receivable by the predecessor owner.

(10) Subsection 66.7(18) of the Act is replaced by the following:

Application of
interpretation
provisions

(18) The definitions in subsection 66(15) and sections 66.1 to 66.4 apply in this section.

(11) Subsections (1) and (5) apply to the 1999 and subsequent taxation years.

(12) Subsections 66.7(2.1) and (2.2) of the Act, as enacted by subsection (2), apply to taxation years of a taxpayer that begin after the earlier of

(a) December 31, 1999; and

(b) where, for the purposes of subsection 117(26), a date is designated in writing by the taxpayer and the designation is filed with the Minister of National Revenue on or before the

taxpayer's filing-due date for the taxpayer's taxation year that includes the day on which this Act receives royal assent, the later of

(i) the date so designated, and

(ii) December 31, 1994.

(13) Subsection 66.7(2.3) of the Act, as enacted by subsection (2), and subsections (3), (4) and (6) to (10) apply to taxation years that begin after 2000.

50. (1) Subparagraph 66.8(1)(a)(i) of the Act is amended by striking out the word "or" at the end of clause (C) and by replacing clause (D) with the following:

(D) the foreign resource expenses in respect of a country (in this subsection referred to as "country-specific foreign expenses"), or

(E) the foreign exploration and development expenses (in this subsection referred to as "global foreign expenses"),

(2) Paragraph 66.8(1)(b) of the Act is amended by striking out the word "and" at the end of subparagraph (iii) and by replacing subparagraph (iv) with the following:

(iv) if any remains unapplied, then to reduce (in the order specified by the taxpayer in writing filed with the Minister on or before the taxpayer's filing-due date for the taxpayer's taxation year in which the fiscal period ends or, where no such specification is made, in the order determined by the Minister) the taxpayer's share of country-specific foreign expenses, and

(v) if any remains unapplied, then to reduce the taxpayer's share of global foreign expenses; and

(3) Subsections (1) and (2) apply to fiscal periods that begin after 2000.

51. (1) Paragraph 69(1)(b) of the Act is amended by striking out the word "or" at the end of subparagraph (i), by adding the word "or" at the end of subparagraph (ii) and by adding the following after subparagraph (ii):

(iii) to a trust because of a disposition of a property that does not result in a change in the beneficial ownership of the property; and

(2) Paragraph 69(1)(c) of the Act is replaced by the following:

(c) where a taxpayer acquires a property by way of gift, bequest or inheritance or because of a disposition that does not result in a change in the beneficial ownership of the property, the taxpayer is deemed to acquire the property at its fair market value.

(3) Paragraph 69(5)(c) of the Act is replaced by the following:

(c) subsections 52(1) and (2) do not apply for the purposes of determining the cost to the shareholder of the property; and

(4) Subsection (1) applies to dispositions that occur after December 23, 1998.

(5) Subsection (2) applies to acquisitions that occur after December 23, 1998.

(6) Subsection (3) applies to dispositions that occur after 1999.

52. (1) The portion of paragraph 70(5.1)(d) of the Act before the formula is replaced by the following:

(d) for the purpose of determining, after that time, the amount required by paragraph 14(1)(b) to be included in computing the income of the beneficiary in respect of any subsequent disposition of the property of the business, there shall be added to the amount determined for Q in the definition "cumulative eligible capital" in subsection 14(5) the amount determined by the formula

(2) Paragraph 70(5.2)(a) of the Act is replaced by the following:

(a) the taxpayer is deemed to have, immediately before the taxpayer's death, disposed of each Canadian resource property and foreign resource property of the taxpayer and received proceeds of disposition for that property equal to its fair market value immediately before the death;

(a.1) subject to subparagraph (b)(ii), any particular person who as a consequence of the taxpayer's death acquires any property that is deemed by paragraph (a) to have been disposed of by the taxpayer is deemed to have acquired the property at the time of the death at a cost equal to the fair market value of the property immediately before the death;

(3) Subparagraph 70(5.2)(b)(ii) of the Act is replaced by the following:

(ii) the spouse, common-law partner or trust, as the case may be, is deemed to have acquired the property at the time of the

death at a cost equal to the amount determined in respect of the disposition under subparagraph (i);

(4) Paragraph 70(5.2)(c) of the Act is replaced by the following:

(c) the taxpayer is deemed to have, immediately before the taxpayer's death, disposed of each property that was land included in the inventory of a business of the taxpayer and received proceeds of disposition for that property equal to its fair market value immediately before the death;

(c.1) subject to subparagraph (d)(ii), any particular person who as a consequence of the taxpayer's death acquires any property that is deemed by paragraph (c) to have been disposed of by the taxpayer is deemed to have acquired the property at the time of the death at a cost equal to the fair market value of the property immediately before the death; and

(5) Subsection 70(5.3) of the Act is replaced by the following:

Fair market
value

(5.3) For the purposes of subsections (5) and 104(4) and section 128.1, the fair market value at any time of any property deemed to have been disposed of at that time as a consequence of a particular individual's death or as a consequence of the particular individual becoming or ceasing to be resident in Canada shall be determined as though the fair market value at that time of any life insurance policy, under which the particular individual (or any other individual not dealing at arm's length with the particular individual at that time or at the time the policy was issued) was a person whose life was insured, were the cash surrender value (as defined in subsection 148(9)) of the policy immediately before the particular individual died or became or ceased to be resident in Canada, as the case may be.

(6) The portion of subsection 70(9.1) of the Act before paragraph (a) is replaced by the following:

Transfer of
farm property
from trust to
settlor's
children

(9.1) Where any property in Canada of a taxpayer that is land or depreciable property of a prescribed class has been transferred or distributed to a trust described in subsection (6) or 73(1) (as that subsection applied to transfers before 2000) or a trust to

which subparagraph 73(1.01)(c)(i) applies and the property or a replacement property for that property in respect of which the trust has made an election under subsection 13(4) or 44(1) was, immediately before the death of the taxpayer's spouse or common-law partner who was a beneficiary under the trust, used in the business of farming and has, on the death of the spouse or common-law partner and as a consequence of the death, been transferred or distributed to and vested indefeasibly in an individual who was a child of the taxpayer and who was resident in Canada immediately before the death of the spouse or common-law partner, the following rules apply:

(7) The portion of subsection 70(9.3) of the Act before paragraph (a) is replaced by the following:

Transfer of
family farm
corporation or
partnership
from trust to
children of
settlor

(9.3) Where property of a taxpayer has been transferred or distributed to a trust described in subsection (6) or 73(1) (as that subsection applied to transfers before 2000) or a trust to which subparagraph 73(1.01)(c)(i) applies and the property was,

(8) Subsection (1) applies in respect of taxation years that end after February 27, 2000.

(9) Paragraphs 70(5.2)(a) and (c) of the Act, as enacted by subsections (2) and (4), respectively, and subsection (3) apply to taxation years that begin after 2000.

(10) Paragraphs 70(5.2)(a.1) and (c.1) of the Act, as enacted by subsections (2) and (4), respectively, apply to acquisitions that occur after 1992.

(11) Subsection (5) applies to dispositions that occur after October 1, 1996.

(12) Subsections (6) and (7) apply to transfers and distributions from trusts that occur after 1999.

(13) Where a particular transfer or distribution to a trust referred to in subsection 70(9.1) or (9.3) of the Act, as enacted by subsections (6) and (7), respectively, occurred before 2001, in applying that subsection 70(9.1) or (9.3) to a transfer or distribution from the trust that occurs after 1997, that subsection

shall be read without reference to the words "or common-law partner" and to the *Modernization of Benefits and Obligations Act*, unless

(a) the particular transfer or distribution occurred after 1997;

(b) the death referred to in that subsection occurs after 1997;
and

(c) either

(i) at the time of the particular transfer or distribution referred to in paragraph (a), the taxpayer was a spouse of the individual whose death is referred to in paragraph (b), or

(ii) because of an election under section 144 of the *Modernization of Benefits and Obligations Act*, sections 130 to 142 of that Act applied, at the time of the particular transfer or distribution referred to in paragraph (a), to the taxpayer and the individual whose death is referred to in paragraph (b).

53. (1) Subsections 73(1) and (1.1) of the Act are replaced by the following:

Inter vivos
transfers by
individuals

73. (1) For the purposes of this Part, where at any time any particular capital property of an individual (other than a trust) has been transferred in circumstances to which subsection (1.01) applies and both the individual and the transferee are resident in Canada at that time, unless the individual elects in the individual's return of income under this Part for the taxation year in which the property was transferred that the provisions of this subsection not apply, the particular property is deemed

(a) to have been disposed of at that time by the individual for proceeds equal to,

(i) where the particular property is depreciable property of a prescribed class, that proportion of the undepreciated capital cost to the individual immediately before that time of all property of that class that the fair market value immediately before that time of the particular property is of the fair market value immediately before that time of all of that property of that class, and

(ii) in any other case, the adjusted cost base to the individual of the particular property immediately before that time; and

(b) to have been acquired at that time by the transferee for an amount equal to those proceeds.

Qualifying transfers

(1.01) Subject to subsection (1.02), property is transferred by an individual in circumstances to which this subsection applies where it is transferred to

(a) the individual's spouse or common-law partner;

(b) a former spouse or common-law partner of the individual in settlement of rights arising out of their marriage or common-law partnership; or

(c) a trust created by the individual under which

(i) the individual's spouse or common-law partner is entitled to receive all of the income of the trust that arises before the spouse's or common-law partner's death and no person except the spouse or common-law partner may, before the spouse's or common-law partner's death, receive or otherwise obtain the use of any of the income or capital of the trust,

(ii) the individual is entitled to receive all of the income of the trust that arises before the individual's death and no person except the individual may, before the individual's death, receive or otherwise obtain the use of any of the income or capital of the trust, or

(iii) either

(A) the individual or the individual's spouse is, in combination with the other, entitled to receive all of the income of the trust that arises before the later of the death of the individual and the death of the spouse and no other person may, before the later of those deaths, receive or otherwise obtain the use of any of the income or capital of the trust, or

(B) the individual or the individual's common-law partner is, in combination with the other, entitled to receive all of the income of the trust that arises before the later of the death of the individual and the death of the common-law partner and no other person may, before the later of those deaths,

receive or otherwise obtain the use of any of the income or capital of the trust.

Exception for transfers

(1.02) Subsection (1.01) applies to a transfer of property by an individual to a trust the terms of which satisfy the conditions in subparagraph (1.01)(c)(ii) or (iii) only where

(a) the trust was created after 1999;

(b) either

(i) the individual had attained 65 years of age at the time the trust was created, or

(ii) the transfer does not result in a change in beneficial ownership of the property and there is immediately after the transfer no absolute or contingent right of a person (other than the individual) or partnership as a beneficiary (determined with reference to subsection 104(1.1)) under the trust; and

(c) in the case of a trust the terms of which satisfy the conditions in subparagraph (1.01)(c)(ii), the trust does not make an election under subparagraph 104(4)(a)(ii.1).

Interpretation

(1.1) For greater certainty, a property is, for the purposes of subsections (1) and (1.01), deemed to be property of the individual referred to in subsection (1) that has been transferred to a particular transferee where,

(a) under the laws of a province or because of a decree, order or judgment of a competent tribunal made in accordance with those laws, the property

(i) is acquired or is deemed to have been acquired by the particular transferee,

(ii) is deemed or declared to be property of, or is awarded to, the particular transferee, or

(iii) has vested in the particular transferee; and

(b) the property was or would, but for those laws, have been a capital property of the individual referred to in subsection (1).

(2) Subsection (1) applies to transfers that occur after 1999 except that,

(a) in respect of transfers that occur in 2000 or 2001, for the purpose of subsection 73(1) of the Act, as enacted by subsection (1), the residence of a transferee trust shall be determined without reference to section 94 of the Act, as it reads before 2002;

(b) in respect of transfers that occur in 2000 and subject to paragraph (c),

(i) subsection 73(1.01) of the Act, as enacted by subsection (1), shall be read without reference to the words "or common-law partner", "or common-law partner's" and "or common-law partnership", and

(ii) subparagraph 73(1.01)(c)(iii) of the Act, as enacted by subsection (1), shall be read as follows:

(iii) the individual or the individual's spouse is, in combination with the other, entitled to receive all of the income of the trust that arises before the later of the death of the individual and the death of the spouse and no other person may, before the later of those deaths, receive or otherwise obtain the use of any of the income or capital of the trust.

(c) paragraph (b) does not apply to a transfer at any time by an individual to or for the benefit of another individual where, because of an election under section 144 of the *Modernization of Benefits and Obligations Act*, sections 130 to 142 of that Act applied at that time to those individuals; and

(d) in respect of transfers that occur before ANNOUNCEMENT DATE, subparagraph 73(1.02)(b)(ii) of the Act, as enacted by subsection (1), shall be read as follows:

(ii) no person (other than the individual) or partnership has any absolute or contingent right as a beneficiary under the trust (determined with reference to subsection 104(1.1)); and

54. (1) Section 74.2 of the Act is amended by adding the following after subsection (2):

Election for
subsection (1)
to apply

(3) Subsection (1) does not apply to a disposition at any particular time (in this subsection referred to as the "emigration disposition") under paragraph 128.1(4)(b), by a taxpayer who is a recipient referred to in subsection (1), unless the recipient and the individual referred to in that subsection, in their returns of income for the taxation year that includes the first time, after the particular time, at which the recipient disposes of the property, jointly elect that subsection (1) apply to the emigration disposition.

Application of
subsection (3)

(4) For the purpose of applying subsection (3) and notwithstanding subsections 152(4) to (5), any assessment of tax payable under this Act by the recipient or the individual referred to in subsection (1) shall be made that is necessary to take an election under subsection (3) into account except that no such assessment shall affect the computation of

(a) interest payable under this Act to or by a taxpayer in respect of any period that is before the taxpayer's filing-due date for the taxation year that includes the first time, after the particular time referred to in subsection (3), at which the recipient disposes of the property referred to in that subsection; or

(b) any penalty payable under this Act.

(2) Subsection (1) applies after October 1, 1996.

55. (1) The portion of subsection 75(2) of the Act after paragraph (a) is replaced by the following:

(b) that, during the existence of the person, the property shall not be disposed of except with the person's consent or in accordance with the person's direction,

any income or loss from the property or from property substituted for the property, and any taxable capital gain or allowable capital loss from the disposition of the property or of property substituted for the property, shall, during the existence of the person while the person is resident in Canada, be deemed to be income or a loss, as the case may be, or a taxable capital gain or allowable capital loss, as the case may be, of the person.

(2) Paragraphs 75(3)(a) and (b) of the Act are replaced by the following:

(a) by a trust governed by a deferred profit sharing plan, an employee benefit plan, an employees profit sharing plan, a registered education savings plan, a registered pension plan, a registered retirement income fund, a registered retirement savings plan, a registered supplementary unemployment benefit plan or a retirement compensation arrangement;

(b) by an employee trust, a related segregated fund trust (within the meaning assigned by paragraph 138.1(1)(a)), a trust described in paragraph (a.1) of the definition "trust" in subsection 108(1), or a trust described in paragraph 149(1)(y);

(3) Subsection (1) applies to taxation years that begin after 2000.

(4) Paragraph 75(3)(a) of the Act, as enacted by subsection (2), applies to taxation years that end after October 8, 1986 and, notwithstanding subsections 152(4) to (5) of the Act, the Minister of National Revenue shall make any assessments, reassessments and additional assessments of tax, interest and penalties that are necessary to give effect to the words "retirement compensation arrangement" in that paragraph.

(5) Paragraph 75(3)(b) of the Act, as enacted by subsection (2), applies to the 1999 and subsequent taxation years.

56. (1) The Act is amended by adding the following after section 76:

Non-resident
moving debt
from Canadian
business

76.1 (1) If at any time a debt obligation of a non-resident taxpayer that is denominated in a foreign currency ceases to be an obligation of the taxpayer in respect of a business or part of a business carried on by the taxpayer in Canada immediately before that time (other than an obligation in respect of which the taxpayer ceased to be indebted at that time), for the purpose of determining the amount of any income, loss, capital gain or capital loss due to the fluctuation in the value of the foreign currency relative to Canadian currency, the taxpayer is deemed to have settled the debt obligation immediately before that time at the amount outstanding on account of its principal amount.

Non-resident
assuming debt

(2) If at any time a debt obligation of a non-resident taxpayer that is denominated in a foreign currency becomes an obligation of the taxpayer in respect of a business or part of a business that the taxpayer carries on in Canada after that time (other than an obligation in respect of which the taxpayer became indebted at that time), the amount of any income, loss, capital gain or capital loss in respect of the obligation due to the fluctuation in the value of the foreign currency relative to Canadian currency shall be determined based on the amount of the obligation in Canadian currency at that time.

(2) Subsection (1) applies after June 27, 1999 in respect of an authorized foreign bank, and after August 8, 2000 in any other case.

57. (1) Subsection 79.1(2) of the Act is replaced by the following:

Seizure of
property

(2) Subject to subsection (2.1) and for the purpose of this section, a property is seized at any time by a person in respect of a debt where

(a) the beneficial ownership of the property is acquired or reacquired at that time by the person; and

(b) the acquisition or reacquisition of the property is in consequence of another person's failure to pay to the person all or part of the specified amount of the debt.

Exception

(2.1) For the purpose of this section, foreign resource property is deemed not to be seized at any time from

(a) an individual or a corporation, if the individual or corporation is non-resident at that time; or

(b) a partnership (other than a partnership each member of which is resident in Canada at that time).

(2) Subsection (1) applies in respect of property acquired or reacquired after February 27, 2000.

58. (1) The portion of the definition "successor pool" in subsection 80(1) of the Act before paragraph (f) is replaced by the following:

"successor
pool"
« *compte de
société
remplaçante* »

"successor pool" at any time for a commercial obligation and in respect of an amount determined in relation to a debtor means the portion of that amount that would be deductible under subsection 66.7(2), (2.3), (3), (4) or (5), as the case may be, in computing the debtor's income for the taxation year that includes that time, if

- (a) the debtor had sufficient incomes from all sources,
- (b) subsection (8) did not apply to reduce the amount so determined at that time,
- (c) the year ended immediately after that time, and
- (d) paragraphs 66.7(2.3)(a), (4)(a) and (5)(a) were read without reference to the expressions "30% of", "30% of" and "10% of", respectively,

except that the successor pool at that time for the obligation is deemed to be nil unless

- (e) the obligation was issued by the debtor before, and not in contemplation of, the event described in paragraph (8)(a) that gives rise to the deductibility under subsection 66.7(2), (2.3), (3), (4) or (5), as the case may be, of all or part of that amount in computing the debtor's income, or

(2) Paragraph 80(2)(d) of the Act is replaced by the following:

(d) the applicable fraction of the unapplied portion of a forgiven amount at any time in respect of an obligation issued by the debtor is in respect of a loss for any other taxation year, the fraction required to be used under section 38 for that year;

(3) Paragraph 80(8)(a) of the Act is replaced by the following:

(a) where the debtor is a corporation resident in Canada throughout that year, each particular amount that would be determined in respect of the debtor under paragraph 66.7(2)(a), (2.3)(a), (3)(a), (4)(a) or (5)(a) if paragraphs 66.7(2.3)(a), (4)(a) and (5)(a) were read without reference to the expressions "30% of", "30% of" and "10% of", respectively, as a consequence of the acquisition of control of the debtor by a person or group of persons, the debtor ceasing to be exempt from tax under this

Part on its taxable income or the acquisition of properties by the debtor by way of an amalgamation or merger, where the amount so applied does not exceed the successor pool immediately after that time for the obligation and in respect of the particular amount;

(4) Subsection 80(8) of the Act is amended by striking out the word "and" at the end of paragraph (d), by adding the word "and" at the end of paragraph (e) and by adding the following after paragraph (e):

(f) the cumulative foreign resource expense (within the meaning assigned by subsection 66.21(1)) of the debtor in respect of a country.

(5) Clause 80(12)(a)(ii)(B) of the Act is amended by replacing the reference to the expression "4/3 of" with a reference to the word "twice".

(6) Subparagraph (a)(ii) of the description of D in subsection 80(13) of the Act is amended by replacing the reference to the expression "4/3 of" with a reference to the word "twice".

(7) Paragraph (b) of the description of E in subsection 80(13) of the Act is amended by replacing the reference to the number "0.75" with a reference to the fraction "1/2".

(8) Subsections (1), (3) and (4) apply to taxation years that begin after 2000.

(9) Subsections (2) and (5) to (7) apply to taxation years that end after February 27, 2000 except that, for a taxation year of a debtor that includes either February 28, 2000 or October 17, 2000 or began after February 28, 2000 and ended before October 17, 2000,

(a) the reference to the word "twice" in clause 80(12)(a)(ii)(B) of the Act, as enacted by subsection (5), and in subparagraph (a)(ii) of the description of D in subsection 80(13) of the Act, as enacted by subsection (6), shall be read as a reference to the expression "the fraction that is the reciprocal of the fraction in paragraph 38(a), as enacted by subsection 22(1) of the *Income Tax Amendments Act, 2000*, that applies to the debtor for the year, multiplied by"; and

(b) the reference to the fraction "1/2" in paragraph (b) of the description of E in subsection 80(13) of the Act, as enacted by subsection (7), shall be read as a reference to the fraction in paragraph 38(a) of the Act, as enacted by subsection 22(1), that applies to the debtor for the year.

59. (1) Subsection 80.01(10) of the Act is amended by replacing the reference to the number "0.75" in the formula with a reference to the number "0.5".

(2) Subsection (1) applies to taxation years that end after February 27, 2000 except that, for a taxation year of a debtor that includes either February 28, 2000 or October 17, 2000 or began after February 28, 2000 and ended before October 17, 2000, the reference to the fraction "1/2" in subsection 80.01(10) of the Act, as enacted by subsection (1), shall be read as a reference to the fraction in paragraph 38(a) of the Act, as enacted by subsection 22(1), that applies to the debtor for the year.

60. (1) Subsection 81(1) of the Act is amended by adding the following after paragraph (g.3):

Relief for
increased
heating
expenses

(g.4) an amount received pursuant to the *Order Authorizing Ex Gratia Payments for Increased Heating Expenses*;

(2) Subsection 81(3.1) of the Act is replaced by the following:

Travel expenses

(3.1) There shall not be included in computing an individual's income for a taxation year an amount (not in excess of a reasonable amount) received by the individual from an employer with whom the individual was dealing at arm's length as an allowance for, or reimbursement of, travel expenses incurred by the individual in the year in respect of the individual's part-time employment in the year with the employer (other than expenses incurred in the performance of the duties of the individual's part-time employment) if

(a) throughout the period in which the expenses were incurred,

(i) the individual had other employment or was carrying on a business, or

(ii) where the employer is a designated educational institution (within the meaning assigned by subsection 118.6(1)), the duties of the individual's part-time employment were the provision in Canada of a service to the employer in the individual's capacity as a professor or teacher; and

(b) the duties of the individual's part-time employment were performed at a location not less than 80 kilometres from,

(i) where subparagraph (a)(i) applies, both the individual's ordinary place of residence and the place of the other employment or business referred to in that subparagraph, and

(ii) where subparagraph (a)(ii) applies, the individual's ordinary place of residence.

Payments for
volunteer
services

(4) Where

(a) an individual was employed or otherwise engaged in a taxation year by a government, municipality or public authority (in this subsection referred to as "the employer") and received in the year from the employer one or more amounts for the performance, as a volunteer, of the individual's duties as

(i) an ambulance technician,

(ii) a firefighter, or

(iii) a person who assists in the search or rescue of individuals or in other emergency situations, and

(b) if the Minister so demands, the employer has certified in writing that

(i) the individual was in the year a person described in paragraph (a), and

(ii) the individual was at no time in the year employed or otherwise engaged by the employer, otherwise than as a volunteer, in connection with the performance of any of the duties referred to in paragraph (a) or of similar duties,

there shall not be included in computing the individual's income derived from the performance of those duties the lesser of \$1,000 and the total of those amounts.

(3) Subsection (1) applies to amounts received after 2000.

(4) Subsection 81(3.1) of the Act, as enacted by subsection (2), applies to the 1995 and subsequent taxation years and, notwithstanding subsections 152(4) to (5) of the Act, any assessment of an individual's tax payable under the Act for any

taxation year that ends before 2000 shall be made that is necessary to take into account the application of that subsection 81(3.1).

(5) Subsection 81(4) of the Act, as enacted by subsection (2), applies to the 1998 and subsequent taxation years.

61. (1) Subsection 84.1(2.1) of the Act is amended by replacing the references to the expression "4/3 of" with references to the word "twice" and by replacing the reference to the fraction "3/4" with a reference to the fraction "1/2".

(2) Subsection (1) applies to taxation years that end after February 27, 2000 except that, for a taxation year of a taxpayer that includes either February 28, 2000 or October 17, 2000 or began after February 28, 2000 and ended before October 17, 2000, the references to the word "twice" in subsection 84.1(2.1) of the Act, as enacted by subsection (1), shall be read as references to the expression "the fraction that is the reciprocal of the fraction in paragraph 38(a), as enacted by subsection 22(1) of the *Income Tax Amendments Act, 2000*, that applies to the taxpayer for the year multiplied by" and the reference to the fraction "1/2" shall be read as a reference to the fraction in paragraph 38(a) of the Act, as enacted by subsection 22(1), that applies to the taxpayer for the year.

62. (1) The descriptions of D and E in paragraph 85(1)(d.1) of the Act are replaced by the following:

D is the amount, if any, that would be included under subsection 14(1) in computing the taxpayer's income as a result of the disposition if the values determined for C and D in paragraph 14(1)(b) were zero, and

E is the amount, if any, that would be included under subsection 14(1) in computing the taxpayer's income as a result of the disposition if the value determined for D in paragraph 14(1)(b) were zero;

(2) Section 85 of the Act is amended by adding the following after subsection (1.1):

Exception

(1.11) Notwithstanding subsection (1.1), a foreign resource property, or an interest in a partnership that derives all or part of its value from one or more foreign resource properties, is not an eligible property of a taxpayer in respect of a disposition by the taxpayer to a corporation where

(a) the taxpayer and the corporation do not deal with each other at arm's length; and

(b) it is reasonable to conclude that one of the purposes of the disposition, or a series of transactions or events of which the disposition is a part, is to increase the extent to which any person may claim a deduction under section 126.

(3) Subsection (1) applies in respect of taxation years that end after February 27, 2000.

(4) Subsection (2) applies to dispositions that occur after December 21, 2000 other than a disposition by a taxpayer that occurs pursuant to an agreement in writing made by the taxpayer on or before that date.

63. (1) Subsection 85.1(2) of the Act is amended by striking out the word "or" at the end of paragraph (c), by adding the word "or" at the end of paragraph (d) and by adding the following after paragraph (d):

(e) the vendor

(i) is a foreign affiliate of a taxpayer resident in Canada at the end of the taxation year of the vendor in which the exchange occurred, and

(ii) has included any portion of the gain or loss, otherwise determined, from the disposition of the exchanged shares in computing its foreign accrual property income for the taxation year of the vendor in which the exchange occurred.

(2) Section 85.1 of the Act is amended by adding the following after subsection (4):

Foreign share
for foreign
share exchange

(5) Subject to subsections (3) and (6) and 95(2), where a corporation resident in a country other than Canada (in this section referred to as the "foreign purchaser") issues shares of its capital stock (in this section referred to as the "issued foreign shares") to a vendor in exchange for shares of the capital stock of another corporation resident in a country other than Canada (in this section referred to as the "exchanged foreign shares") that were immediately before the exchange capital property of the vendor, except where the vendor has, in the vendor's return of income for the taxation year in which the exchange occurred, included in computing the vendor's income for that year any portion

of the gain or loss, otherwise determined, from the disposition of the exchanged foreign shares, the vendor is deemed

(a) to have disposed of the exchanged foreign shares for proceeds of disposition equal to the adjusted cost base to the vendor of those shares immediately before the exchange, and

(b) to have acquired the issued foreign shares at a cost to the vendor equal to the adjusted cost base to the vendor of the exchanged foreign shares immediately before the exchange,

and where the exchanged foreign shares were taxable Canadian property of the vendor, the issued foreign shares so acquired by the vendor are deemed to be taxable Canadian property of the vendor.

Where
subsection (5)
does not apply

(6) Subsection (5) does not apply where

(a) the vendor and foreign purchaser were, immediately before the exchange, not dealing with each other at arm's length (otherwise than because of a right referred to in paragraph 251(5)(b) that is a right of the foreign purchaser to acquire the exchanged foreign shares);

(b) immediately after the exchange the vendor, persons with whom the vendor did not deal at arm's length or the vendor together with persons with whom the vendor did not deal at arm's length,

(i) controlled the foreign purchaser, or

(ii) beneficially owned shares of the capital stock of the foreign purchaser having a fair market value of more than 50% of the fair market value of all of the outstanding shares of the capital stock of the foreign purchaser;

(c) consideration other than issued foreign shares was received by the vendor for the exchanged foreign shares, notwithstanding that the vendor may have disposed of shares of the capital stock of the other corporation referred to in subsection (5) (other than the exchanged foreign shares) to the foreign purchaser for consideration other than shares of the capital stock of the foreign purchaser;

(d) the vendor

(i) is a foreign affiliate of a taxpayer resident in Canada at the end of the taxation year of the vendor in which the exchange occurred, and

(ii) has included any portion of the gain or loss, otherwise determined, from the disposition of the exchanged foreign shares in computing its foreign accrual property income for the taxation year of the vendor in which the exchange occurred; or

(e) the vendor is a foreign affiliate of a taxpayer resident in Canada at the end of the taxation year of the vendor in which the exchange occurred and the exchanged foreign shares are excluded property (within the meaning assigned by subsection 95(1)) of the vendor.

(3) Subsections (1) and (2) apply to exchanges that occur after 1995.

64. (1) The Act is amended by adding the following after section 86:

Foreign Spin-offs

Eligible
distribution
not included in
income

86.1 (1) Notwithstanding any other provision of this Part,

(a) the amount of an eligible distribution received by a taxpayer shall not be included in computing the income of the taxpayer; and

(b) subsection 52(2) does not apply to the eligible distribution received by the taxpayer.

Eligible
distribution

(2) For the purposes of this section and Part XI, a distribution by a particular corporation that is received by a taxpayer is an eligible distribution if

(a) the distribution is with respect to all of the taxpayer's common shares of the capital stock of the particular corporation (in this section referred to as the "original shares");

(b) the distribution consists solely of common shares of the capital stock of another corporation that were owned by the

particular corporation immediately before their distribution to the taxpayer (in this section referred to as the "spin-off shares");

(c) in the case of a distribution that is not prescribed,

(i) at the time of the distribution, both corporations are resident in the United States and were never resident in Canada,

(ii) at the time of the distribution, the shares of the class that includes the original shares are widely held and actively traded on a prescribed stock exchange in the United States, and

(iii) under the *United States Internal Revenue Code* applicable to the distribution, the shareholders of the particular corporation who are resident in the United States are not taxable in respect of the distribution;

(d) in the case of a distribution that is prescribed,

(i) at the time of the distribution, both corporations are resident in the same country, other than the United States, with which Canada has a tax treaty (in this section referred to as the "foreign country") and were never resident in Canada,

(ii) at the time of the distribution, the shares of the class that includes the original shares are widely held and actively traded on a prescribed stock exchange,

(iii) under the law of the foreign country, those shareholders of the particular corporation who are resident in that country are not taxable in respect of the distribution, and

(iv) the distribution is prescribed subject to such terms and conditions as are considered appropriate in the circumstances;

(e) before the end of the sixth month following the day on which the particular corporation first distributes a spin-off share in respect of the distribution, the particular corporation provides to the Minister information satisfactory to the Minister establishing

(i) that, at the time of the distribution, the shares of the class that includes the original shares are widely held and actively traded on a prescribed stock exchange,

(ii) that the particular corporation and the other corporation referred to in paragraph (b) were never resident in Canada,

(iii) the date of the distribution,

(iv) the type and fair market value of each property distributed to residents of Canada,

(v) the name and address of each resident of Canada that received property with respect to the distribution,

(vi) in the case of a distribution that is not prescribed, that the distribution is not taxable under the *United States Internal Revenue Code* applicable to the distribution,

(vii) in the case of a distribution that is prescribed, that the distribution is not taxable under the law of the foreign country, and

(viii) such other matters that are required, in prescribed form; and

(f) except where Part XI applies in respect of the taxpayer, the taxpayer elects in writing filed with the taxpayer's return of income for the taxation year in which the distribution occurs (or, in the case of a distribution received before October 18, 2000, filed with the Minister before July 2001) that this section apply to the distribution and provides information satisfactory to the Minister

(i) of the number, cost amount (determined without reference to this section) and fair market value of the taxpayer's original shares immediately before the distribution,

(ii) of the number, and fair market value, of the taxpayer's original shares and the spin-off shares immediately after the distribution of the spin-off shares to the taxpayer,

(iii) except where the election is filed with the taxpayer's return of income for the year in which the distribution occurs, concerning the amount of the distribution, the manner in which the distribution was reported by the taxpayer and the details of any subsequent disposition of original shares or spin-off shares for the purpose of determining any gains or losses from those dispositions, and

(iv) of such other matters that are required, in prescribed form.

Cost
adjustments

(3) Where a spin-off share is distributed by a corporation to a taxpayer pursuant to an eligible distribution with respect to an original share of the taxpayer,

(a) there shall be deducted for the purpose of computing the cost amount to the taxpayer of the original share at any time the amount determined by the formula

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

where

A is the cost amount, determined without reference to this section, to the taxpayer of the original share at the time that is immediately before the distribution or, if the original share is disposed of by the taxpayer, before the distribution, at the time that is immediately before its disposition,

B is the fair market value of the spin-off share immediately after its distribution to the taxpayer, and

C is the total of

(i) the fair market value of the original share immediately after the distribution of the spin-off share to the taxpayer, and

(ii) the fair market value of the spin-off share immediately after its distribution to the taxpayer; and

(b) the cost to the taxpayer of the spin-off share is the amount by which the cost amount of the taxpayer's original share was reduced as a result of paragraph (a).

Inventory

(4) For the purpose of calculating the value of the property described in an inventory of a taxpayer's business,

(a) an eligible distribution to the taxpayer of a spin-off share that is included in the inventory is deemed not to be an acquisition of property in the fiscal period of the business in which the distribution occurs; and

(b) for greater certainty, the value of the spin-off share is to be included in computing the value of the inventory at the end of that fiscal period.

Reassessments

(5) Notwithstanding subsections 152(4) to (5), the Minister may make at any time such assessments, reassessments, determinations and redeterminations that are necessary where information is obtained that the conditions in subparagraph (2)(c)(iii) or (d)(iii) are not, or are no longer, satisfied.

(2) Subsection (1) applies to distributions received after 1997, except that

(a) information referred to in paragraph 86.1(2)(e) of the Act, as enacted by subsection (1), is deemed to be provided to the Minister of National Revenue on a timely basis if it is provided to that Minister before the day that is 90 days after the day on which this Act receives royal assent; and

(b) the election referred to in paragraph 86.1(2)(f) of the Act, as enacted by subsection (1), is deemed to be filed on a timely basis if it is filed with the Minister of National Revenue before the day that is 90 days after the day on which this Act receives royal assent.

65. (1) Subsection 87(1.2) of the Act is replaced by the following:

New corporation
continuation of
a predecessor

(1.2) Where there has been an amalgamation of corporations described in paragraph (1.1)(a) or of two or more corporations each of which is a subsidiary wholly-owned corporation of the same person, the new corporation is, for the purposes of section 29 of the *Income Tax Application Rules*, subsection 59(3.3) and sections 66, 66.1, 66.2, 66.21, 66.4 and 66.7, deemed to be the same corporation as, and a continuation of, each predecessor corporation, except that this subsection does not affect the determination of any predecessor corporation's fiscal period, taxable income or tax payable.

(2) Subparagraph 87(2)(u)(ii) of the Act is replaced by the following:

(ii) for the purposes of subsections 93(2) to (2.3), any exempt dividend received by the predecessor corporation on any such share is deemed to be an exempt dividend received by the new corporation on the share;

(3) The portion of subsection 87(8) of the Act before paragraph (a) is replaced by the following:

Foreign merger

(8) Subject to subsection 95(2), where there has been a foreign merger in which a taxpayer's shares or options to acquire shares of the capital stock of a corporation that was a predecessor foreign corporation immediately before the merger were exchanged for or became shares or options to acquire shares of the capital stock of the new foreign corporation or the foreign parent corporation, unless the taxpayer elects in the taxpayer's return of income for the taxation year in which the foreign merger took place not to have this subsection apply, subsections (4) and (5) apply to the taxpayer as if the references in those subsections to

(4) Subsection 87(8.1) of the Act is replaced by the following:

Definition of
"foreign
merger"

(8.1) For the purposes of this section, "foreign merger" means a merger or combination of two or more corporations each of which was, immediately before the merger or combination, resident in a country other than Canada (each of which is in this section referred to as a "predecessor foreign corporation") to form one corporate entity resident in a country other than Canada (in this section referred to as the "new foreign corporation") in such a manner that, and otherwise than as a result of the distribution of property to one corporation on the winding-up of another corporation,

(a) all or substantially all the property (except amounts receivable from any predecessor foreign corporation or shares of the capital stock of any predecessor foreign corporation) of the predecessor foreign corporations immediately before the merger or combination becomes property of the new foreign corporation as a consequence of the merger or combination;

(b) all or substantially all the liabilities (except amounts payable to any predecessor foreign corporation) of the predecessor foreign corporations immediately before the merger or combination become liabilities of the new foreign corporation as a consequence of the merger or combination; and

(c) all or substantially all of the shares of the capital stock of the predecessor foreign corporations (except any shares or options owned by any predecessor foreign corporation) are exchanged for or become, because of the merger or combination,

(i) shares of the capital stock of the new foreign corporation,
or

(ii) if, immediately after the merger, the new foreign corporation was controlled by another corporation (in this section referred to as the "foreign parent corporation") that was resident in a country other than Canada, shares of the capital stock of the foreign parent corporation.

(5) The portion of subsection 87(10) of the Act after paragraph (f) is replaced by the following:

the new share is deemed, for the purposes of subsection 116(6), the definitions "qualified investment" in subsections 146(1), 146.1(1), and 146.3(1) and in section 204, and the definition "taxable Canadian property" in subsection 248(1), to be listed on the exchange until the earliest time at which it is so redeemed, acquired or cancelled.

(6) Subsection (1) applies to amalgamations that occur after 2000.

(7) Subsection (2) applies after November 1999.

(8) Subsections (3) and (4) apply to mergers and combinations that occur after 1995 and, where a taxpayer notifies the Minister of National Revenue in writing before the taxpayer's filing-due date for the taxation year in which this Act receives royal assent that the taxpayer makes the election referred to in subsection 87(8) of the Act, as enacted by subsection (3), in respect of a merger or combination that occurred before 1999, the election is deemed to have been validly made in respect of the merger or combination.

(9) Subsection (5) applies after October 1, 1996.

66. (1) The portion of subclause 88(1)(c)(vi)(B)(III) of the Act before sub-subclause 1 is replaced by the following:

(III) a corporation (other than a specified person or the subsidiary)

(2) Clause 88(1)(c.2)(iii)(A) of the Act is replaced by the following:

(A) the reference in the definition "specified shareholder" in subsection 248(1) to "the issued shares of any class of the capital stock of the corporation or of any other corporation that is related to the corporation" shall be read as "the issued shares of any class (other than a specified class) of the capital stock of the corporation or of any other corporation that is related to the corporation and that

has a significant direct or indirect interest in any issued shares of the capital stock of the corporation", and

(3) Subsection 88(1) of the Act is amended by adding the following after paragraph (c.7):

(c.8) for the purpose of clause (c.2)(iii)(A), a specified class of the capital stock of a corporation is a class of shares of the capital stock of the corporation where

(i) the paid-up capital in respect of the class was not, at any time, less than the fair market value of the consideration for which the shares of that class then outstanding were issued,

(ii) the shares are non-voting in respect of the election of the board of directors of the corporation, except in the event of a failure or default under the terms or conditions of the shares,

(iii) under neither the terms and conditions of the shares nor any agreement in respect of the shares are the shares convertible into or exchangeable for shares other than shares of a specified class of the capital stock of the corporation, and

(iv) under neither the terms and conditions of the shares nor any agreement in respect of the shares is any holder of the shares entitled to receive on the redemption, cancellation or acquisition of the shares by the corporation or by any person with whom the corporation does not deal at arm's length an amount (excluding any premium for early redemption) greater than the total of the fair market value of the consideration for which the shares were issued and the amount of any unpaid dividends on the shares;

(4) Subsection 88(1.5) of the Act is replaced by the following:

Parent
continuation of
subsidiary

(1.5) For the purposes of section 29 of the *Income Tax Application Rules*, subsection 59(3.3) and sections 66, 66.1, 66.2, 66.21, 66.4 and 66.7, where the rules in subsection (1) applied to the winding-up of a subsidiary, its parent is deemed to be the same corporation as, and a continuation of, the subsidiary.

(5) The portion of subsection 88(4) of the Act before paragraph (a) is replaced by the following:

Amalgamation
deemed not to
be acquisition
of control

(4) For the purposes of paragraphs (1)(c), (c.2), (d) and (d.2) and, for greater certainty, paragraphs (c.3) to (c.8) and (d.3),

(6) Subsections (1) to (3) and (5) apply to windings-up that begin after November 1994.

(7) Subsection (4) applies to windings-up that occur after 2000.

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

(A) the amount of the corporation's capital gain from a disposition (other than a disposition that is the making of a gift after December 8, 1997 that is not a gift described in subsection 110.1(1)) of a property in the period beginning at the beginning of its first taxation year (that began after the corporation last became a private corporation and that ended after 1971) and ending immediately before the particular time (in this definition referred to as "the period")

(2) Paragraph (c) of the definition "capital dividend account" in subsection 89(1) of the Act is replaced by the following:

(c) the total of all amounts each of which is an amount required to have been included under this paragraph as it read in its application to a taxation year that ended before February 28, 2000,

(c.1) the amount, if any, by which

(i) 1/2 of the total of all amounts each of which is an amount required by paragraph 14(1)(b) to be included in computing the corporation's income in respect of a business carried on by the corporation for a taxation year that is included in the period and that ended after February 27, 2000 and before October 18, 2000,

exceeds

(ii) where the corporation has deducted an amount under subsection 20(4.2) in respect of a debt established by it to have become a bad debt in a taxation year that is included in the period and that ended after February 27, 2000 and before

October 18, 2000, or has an allowable capital loss for such a year because of the application of subsection 20(4.3), the amount determined by the formula:

$$V + W$$

where

V is 1/2 of the value determined for A under subsection 20(4.2) in respect of the corporation for the last such taxation year that ended in the period, and

W is 1/3 of the value determined for B under subsection 20(4.2) in respect of the corporation for the last such taxation year that ended in the period, and

(iii) in any other case, nil,

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

(i) the total of all amounts each of which is an amount required by paragraph 14(1)(b) to be included in computing the corporation's income in respect of a business carried on by the corporation for a taxation year that is included in the period and that ends after October 17, 2000,

exceeds

(ii) where the corporation has deducted an amount under subsection 20(4.2) in respect of a debt established by it to have become a bad debt in a taxation year that is included in the period and that ends after October 17, 2000, or has an allowable capital loss for such a year because of the application of subsection 20(4.3), the amount determined by the formula

$$X + Y$$

where

X is the value determined for A under subsection 20(4.2) in respect of the corporation for the last such taxation year that ended in the period, and

Y is 1/3 of the value determined for B under subsection 20(4.2) in respect of the corporation for the last such taxation year that ended in the period, and

(iii) in any other case, nil,

(3) The definition "capital dividend account" in subsection 89(1) of the Act is amended by striking out the word "and" at the end of paragraph (d) and by adding the following after paragraph (e):

(f) all amounts each of which is an amount in respect of a distribution made in the period by a trust to the corporation in respect of capital gains of the trust equal to the lesser of

(i) the amount, if any, by which

(A) the amount of the distribution,

exceeds

(B) the amount designated under subsection 104(21) by the trust (other than a designation to which subsection 104(21.4) applies) in respect of the net taxable capital gains of the trust attributable to those capital gains, and

(ii) the amount determined by the formula

$$A \times B$$

where

A is the fraction or whole number determined when 1 is subtracted from the reciprocal of the fraction under paragraph 38(a) applicable to the trust for the year, and

B is the amount referred to in clause (i) (B), and

(g) all amounts each of which is an amount in respect of a distribution made by a trust to the corporation in the period in respect of a dividend (other than a taxable dividend) paid on a share of the capital stock of another corporation resident in Canada to the trust during a taxation year of the trust throughout which the trust was resident in Canada equal to the lesser of

(i) the amount of the distribution, and

(ii) the amount designated under subsection 104(20) by the trust in respect of the corporation in respect of that dividend,

(4) Subsection (1) applies to dispositions made after December 8, 1997, other than a disposition made under a written agreement made before December 9, 1997.

(5) Subsection (2) applies in respect of taxation years that end after February 27, 2000.

(6) Subsection (3) applies to elections in respect of capital dividends that become payable after 1997.

68. (1) Section 91 of the Act is amended by adding the following after subsection (6):

Shares acquired
from a
partnership

(7) For the purpose of subsection (5), where a taxpayer resident in Canada acquires a share of the capital stock of a corporation that is immediately after the acquisition a foreign affiliate of the taxpayer from a partnership of which the taxpayer, or a corporation resident in Canada with which the taxpayer was not dealing at arm's length at the time the share was acquired, was a member (each such person referred to in this subsection as the "member") at any time during any fiscal period of the partnership that began before the acquisition,

(a) that portion of any amount required by subsection 92(1) to be added to the adjusted cost base to the partnership of the share of the capital stock of the foreign affiliate equal to the amount included in the income of the member because of subsection 96(1) in respect of the amount that was included in the income of the partnership because of subsection (1) or (3) in respect of the foreign affiliate and added to that adjusted cost base, and

(b) that portion of any amount required by subsection 92(1) to be deducted from the adjusted cost base to the partnership of the share of the capital stock of the foreign affiliate equal to the amount by which the income of the member from the partnership under subsection 96(1) was reduced because of the amount deducted in computing the income of the partnership under subsection (2), (4) or (5) and deducted from that adjusted cost base

is deemed to be an amount required by subsection 92(1) to be added or deducted, as the case may be, in computing the adjusted cost base to the taxpayer of the share.

(2) Subsection (1) applies to shares acquired after November 1999.

69. (1) Section 92 of the Act is amended by adding the following after subsection (3):

Disposition of
a partnership
interest

(4) Where a corporation resident in Canada or a foreign affiliate of a corporation resident in Canada has at any time disposed of all or a portion of an interest in a partnership of which it was a member, there shall be added, in computing the proceeds of disposition of that interest, the amount determined by the formula

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

where

A is the amount, if any, by which

(a) the total of all amounts each of which is an amount that was deductible under paragraph 113(1)(d) by the member from its income in computing its taxable income for any taxation year of the member that began before that time in respect of any portion of a dividend received by the partnership, or would have been so deductible if the member were a corporation resident in Canada,

exceeds

(b) the total of all amounts each of which is the portion of any income or profits tax paid by the partnership or the member of the partnership to a government of a country other than Canada that can reasonably be considered as having been paid in respect of the member's share of the dividend described in paragraph (a);

B is the total of

(a) the total of all amounts each of which was an amount added under this subsection in computing the member's proceeds of a disposition before that time of another interest in the partnership, and

(b) the total of all amounts each of which was an amount deemed by subsection (5) to be a gain of the member from a disposition before that time of a share by the partnership;

C is the adjusted cost base, immediately before that time, of the portion of the member's interest in the partnership disposed of by the member at that time; and

D is the adjusted cost base, immediately before that time, of the member's interest in the partnership immediately before that time.

Deemed gain
from the
disposition of
a share

(5) Where a partnership has, at any time in a fiscal period of the partnership at the end of which a corporation resident in Canada or a foreign affiliate of a corporation resident in Canada was a member, disposed of a share of the capital stock of a corporation, the amount determined under subsection (6) in respect of such a member is deemed to be a gain of the member from the disposition of the share by the partnership for the member's taxation year in which the fiscal period of the partnership ends.

Formula

(6) The amount determined for the purposes of subsection (5) is the amount determined by the formula

$$A - B$$

where

A is the amount, if any, by which

(a) the total of all amounts each of which is an amount that was deductible under paragraph 113(1)(d) by the member from its income in computing its taxable income for a taxation year in respect of any portion of a dividend received by the partnership on the share in a fiscal period of the partnership that began before the time referred to in subsection (5) and ends in the member's taxation year, or would have been so deductible if the member were a corporation resident in Canada,

exceeds

(b) the total of all amounts each of which is the portion of any income or profits tax paid by the partnership or the member to a government of a country other than Canada that can reasonably be considered as having been paid in respect of the member's share of the dividend described in paragraph (a); and

B is the total of all amounts each of which is an amount that was added under subsection (4) in computing the member's proceeds of a disposition before the time referred to in subsection (5) of an interest in the partnership.

(2) Subsection (1) applies to dispositions that occur after November 1999.

70. (1) Subparagraph 93(1)(b)(ii) of the Act is replaced by the following:

(ii) for the purposes of determining the exempt surplus, exempt deficit, taxable surplus, taxable deficit and underlying foreign tax of the affiliate in respect of the corporation resident in Canada (within the meanings assigned by Part LIX of the *Income Tax Regulations*), the affiliate is deemed to have redeemed at the time of the disposition shares of a class of its capital stock.

(2) Section 93 of the Act is amended by adding the following after subsection (1.1):

Disposition of
shares of a
foreign
affiliate
held by a part-
nership

(1.2) Where a particular corporation resident in Canada or a foreign affiliate of the particular corporation (each of which is referred to in this subsection as the "disposing corporation") would, but for this subsection, have a taxable capital gain from a disposition by a partnership, at any time, of shares of a class of the capital stock of a foreign affiliate of the particular corporation and the particular corporation so elects in prescribed manner in respect of the disposition,

(a) $\frac{4}{3}$ of

(i) the amount designated by the particular corporation (which amount shall not exceed the amount that is equal to the proportion of the taxable capital gain of the partnership that the number of shares of that class of the capital stock of the foreign affiliate, determined as the amount, if any, by which the number of those shares that were deemed to have been owned by the disposing corporation for the purposes of subsection 93.1(1) immediately before the disposition exceeds the number of those shares that were deemed to have been owned for those purposes by the disposing corporation immediately after the disposition, is of the number of those shares of the foreign affiliate that were owned by the partnership immediately before the disposition), or

(ii) where subsection (1.3) applies, the amount prescribed for the purpose of that subsection

in respect of those shares is deemed to have been a dividend received immediately before that time on the number of those shares of the foreign affiliate which shall be determined as the amount, if any, by which the number of those shares that the disposing corporation was deemed to own for the purpose of subsection 93.1(1) immediately before the disposition exceeds the number of those shares of the foreign affiliate that the disposing corporation was deemed to own for the purposes of subsection 93.1 (1) immediately after the disposition;

(b) notwithstanding section 96, the disposing corporation's taxable capital gain from the disposition of those shares is deemed to be the amount, if any, by which the disposing corporation's taxable capital gain from the disposition of the shares otherwise determined exceeds the amount designated by the particular corporation in respect of the shares;

(c) for the purpose of any regulation made under this subsection, the disposing corporation is deemed to have disposed of the number of those shares of the foreign affiliate which shall be determined as the amount, if any, by which the number of those shares that the disposing corporation was deemed to own for the purposes of subsection 93.1(1) immediately before the disposition exceeds the number of those shares that the disposing corporation was deemed to own for those purposes immediately after the disposition;

(d) for the purposes of section 113 in respect of the dividend referred to in paragraph (a), the disposing corporation is deemed to have owned the shares on which that dividend was received; and

(e) where the disposing corporation has a taxable capital gain from the partnership because of the application of subsection 40(3) to the partnership in respect of those shares, for the purposes of this subsection, the shares are deemed to have been disposed of by the partnership.

Deemed
election

(1.3) Where a foreign affiliate of a particular corporation resident in Canada has a gain from the disposition by a partnership at any time of shares of a class of the capital stock of a foreign affiliate of the particular corporation that are excluded property, the particular corporation is deemed to have made an election under subsection (1.2) in respect of the number of shares of the foreign affiliate which shall be determined as the amount, if any, by which

the number of those shares that the disposing corporation was deemed to own for the purposes of subsection 93.1(1) immediately before the disposition exceeds the number of those shares that the disposing corporation was deemed to own for those purposes immediately after the disposition.

(3) Subsection 93(2) of the Act is replaced by the following:

Loss limitation
on disposition
of share

(2) Where

(a) a corporation resident in Canada has a loss from the disposition by it at any time of a share of the capital stock of a foreign affiliate of the corporation (in this subsection referred to as the "affiliate share"), or

(b) a foreign affiliate of a corporation resident in Canada has a loss from the disposition by it at any time of a share of the capital stock of another foreign affiliate of the corporation resident in Canada that is not excluded property (in this subsection referred to as the "affiliate share"),

the amount of the loss is deemed to be the amount determined by the formula

$$A - (B - C)$$

where

A is the amount of the loss determined without reference to this subsection,

B is the total of all amounts each of which is an amount received before that time, in respect of an exempt dividend on the affiliate share or on a share for which the affiliate share was substituted, by

(a) the corporation resident in Canada,

(b) a corporation related to the corporation resident in Canada,

(c) a foreign affiliate of the corporation resident in Canada,
or

(d) a foreign affiliate of a corporation related to the corporation resident in Canada, and

C is the total of

(a) the total of all amounts each of which is the amount by which a loss (determined without reference to this section), from another disposition at or before that time by a corporation or foreign affiliate described in the description of B of the affiliate share or a share for which the affiliate share was substituted, was reduced under this subsection in respect of the exempt dividends referred to in the description of B,

(b) the total of all amounts each of which is $\frac{4}{3}$ of the amount by which an allowable capital loss (determined without reference to this section), of a corporation or foreign affiliate described in the description of B from a previous disposition by a partnership of the affiliate share or a share for which the affiliate share was substituted, was reduced under subsection (2.1) in respect of the exempt dividends referred to in the description of B,

(c) the total of all amounts each of which is the amount by which a loss (determined without reference to this section), from a disposition at or before that time by a corporation or foreign affiliate described in the description of B of an interest in a partnership, was reduced under subsection (2.2) in respect of the exempt dividends referred to in the description of B, and

(d) the total of all amounts each of which is $\frac{4}{3}$ of the amount by which an allowable capital loss (determined without reference to this section), of a corporation or foreign affiliate described in the description of B from a disposition at or before that time by a partnership of an interest in another partnership, was reduced under subsection (2.3) in respect of the exempt dividends referred to in the description of B.

Loss limitation
- disposition
of share by
partnership

(2.1) Where

(a) a corporation resident in Canada has an allowable capital loss from a disposition at any time by a partnership of a share of the capital stock of a foreign affiliate of the corporation (in this subsection referred to as the "affiliate share"), or

(b) a foreign affiliate of a corporation resident in Canada has an allowable capital loss from a disposition at any time by a partnership of a share of the capital stock of another foreign affiliate of the corporation resident in Canada that would not be excluded property of the affiliate if the affiliate owned the share immediately before it was disposed of (in this subsection referred to as the "affiliate share"),

the amount of the allowable capital loss is deemed to be the amount determined by the formula

$$A - (B - C)$$

where

A is the amount of the allowable capital loss determined without reference to this subsection,

B is 3/4 of the total of all amounts each of which was received before that time, in respect of an exempt dividend on the affiliate share or on a share for which the affiliate share was substituted, by

(a) the corporation resident in Canada,

(b) a corporation related to the corporation resident in Canada,

(c) a foreign affiliate of the corporation resident in Canada, or

(d) a foreign affiliate of a corporation related to the corporation resident in Canada, and

C is the total of

(a) the total of all amounts each of which is the amount by which an allowable capital loss (determined without reference to this section), of a corporation or foreign affiliate described in the description of B from a disposition at or before that time by a partnership of the affiliate share or a share for which the affiliate share was substituted, was reduced under this subsection in respect of the exempt dividends referred to in the description of B,

(b) the total of all amounts each of which is 3/4 of the amount by which a loss (determined without reference to this section), of a corporation or foreign affiliate described in the description of B from another disposition at or before that time of the affiliate share or a share for which the affiliate

share was substituted, was reduced under subsection (2) in respect of the exempt dividends referred to in the description of B,

(c) the total of all amounts each of which is 3/4 of the amount by which a loss (determined without reference to this section), from a disposition at or before that time by a corporation or foreign affiliate described in the description of B of an interest in a partnership, was reduced under subsection (2.2) in respect of the exempt dividends referred to in the description of B, and

(d) the total of all amounts each of which is the amount by which an allowable capital loss (determined without reference to this section), of a corporation or foreign affiliate described in the description of B from a disposition at or before that time by a partnership of an interest in another partnership, was reduced under subsection (2.3) in respect of exempt dividends referred to in the description of B.

Loss limitation
- disposition
of partnership
interest

(2.2) Where

(a) a corporation resident in Canada has a loss from the disposition by it at any time of an interest in a partnership (in this subsection referred to as the "partnership interest"), which has a direct or indirect interest in shares of the capital stock of a foreign affiliate of the corporation resident in Canada (in this subsection referred to as "affiliate shares"), or

(b) a foreign affiliate of a corporation resident in Canada has a loss from the disposition by it at any time of an interest in a partnership (in this subsection referred to as the "partnership interest"), which has a direct or indirect interest in shares of the capital stock of another foreign affiliate of the corporation resident in Canada that would not be excluded property if the shares were owned by the affiliate (in this subsection referred to as "affiliate shares")

the amount of the loss is deemed to be the amount determined by the formula

$$A - (B - C)$$

where

- A is the amount of the loss determined without reference to this subsection,
- B is the total of all amounts each of which was received before that time, in respect of an exempt dividend on affiliate shares or on shares for which affiliate shares were substituted, by
- (a) the corporation resident in Canada,
 - (b) a corporation related to the corporation resident in Canada,
 - (c) a foreign affiliate of the corporation resident in Canada, or
 - (d) a foreign affiliate of a corporation related to the corporation resident in Canada, and
- C is the total of
- (a) the total of all amounts each of which is the amount by which a loss (determined without reference to this section), from another disposition at or before that time by a corporation or foreign affiliate described in the description of B of affiliate shares or shares for which affiliate shares were substituted, was reduced under subsection (2) in respect of the exempt dividends referred to in the description of B,
 - (b) the total of all amounts each of which is $\frac{4}{3}$ of the amount by which an allowable capital loss (determined without reference to this section), of a corporation or foreign affiliate described in the description of B from another disposition at or before that time by a partnership of affiliate shares or shares for which affiliate shares were substituted, was reduced under subsection (2.1) in respect of the exempt dividends referred to in the description of B,
 - (c) the total of all amounts each of which is the amount by which a loss (determined without reference to this section), from a disposition at or before that time by a corporation or foreign affiliate described in the description of B of an interest in a partnership, was reduced under this subsection in respect of the exempt dividends referred to in the description of B, and
 - (d) the total of all amounts each of which is $\frac{4}{3}$ of the amount by which an allowable capital loss (determined without reference to this section), of a corporation or foreign affiliate described in the description of B from a disposition at or before that time by a partnership of an interest in

another partnership, was reduced under subsection (2.3) in respect of the exempt dividends referred to in the description of B.

Loss limitation
- disposition
of partnership
interest

(2.3) Where

(a) a corporation resident in Canada has an allowable capital loss from a partnership from a disposition at any time of an interest in another partnership that has a direct or indirect interest in shares of the capital stock of a foreign affiliate of the corporation resident in Canada (in this subsection referred to as "affiliate shares"), or

(b) a foreign affiliate of a corporation resident in Canada has an allowable capital loss from a partnership from a disposition at any time by a partnership of an interest in another partnership that has a direct or indirect interest in shares of the capital stock of a foreign affiliate of the corporation resident in Canada that would not be excluded property of the affiliate if the affiliate owned the shares immediately before the disposition (in this subsection referred to as "affiliate shares"),

the amount of the allowable capital loss is deemed to be the amount determined by the formula

$$A - (B - C)$$

where

A is the amount of the allowable capital loss determined without reference to this subsection,

B is 3/4 of the total of all amounts each of which was received before that time, in respect of an exempt dividend on affiliate shares or on shares for which affiliate shares were substituted, by

(a) the corporation resident in Canada,

(b) a corporation related to the corporation resident in Canada,

(c) a foreign affiliate of the corporation resident in Canada,
or

(d) a foreign affiliate of a corporation related to the corporation resident in Canada, and

C is the total of

(a) the total of all amounts each of which is $\frac{3}{4}$ of the amount by which a loss (determined without reference to this section), of a corporation or foreign affiliate described in the description of B from another disposition at or before that time of affiliate shares or shares for which affiliate shares were substituted, was reduced under subsection (2) in respect of the exempt dividends referred to in the description of B,

(b) the total of all amounts each of which is the amount by which an allowable capital loss (determined without reference to this section), of a corporation or foreign affiliate described in the description of B from a disposition at or before that time by a partnership of affiliate shares or shares for which affiliate shares were substituted, was reduced under subsection (2.1) in respect of the exempt dividends referred to in the description of B,

(c) the total of all amounts each of which is $\frac{3}{4}$ of the amount by which a loss (determined without reference to this section), from a disposition at or before that time by a corporation or foreign affiliate described in the description of B of an interest in a partnership, was reduced under subsection (2.2) in respect of the exempt dividends referred to in the description of B, and

(d) the total of all amounts each of which is the amount by which an allowable capital loss (determined without reference to this section), of a corporation or foreign affiliate described in the description of B from a disposition at or before that time by a partnership of an interest in another partnership, was reduced under this subsection in respect of the exempt dividends referred to in the description of B.

(4) Subsection 93(1.2) of the Act, as enacted by subsection (2), is amended by replacing the reference to the expression "4/3 of" with a reference to the word "twice".

(5) Subsection 93(2) of the Act, as enacted by subsection (3), is amended by replacing the references to the expression "4/3 of" with references to the word "twice".

(6) Subsection 93(2.1) of the Act, as enacted by subsection (3), is amended by replacing the references to the fraction " $\frac{3}{4}$ " with references to the fraction " $\frac{1}{2}$ ".

(7) Subsection 93(2.2) of the Act, as enacted by subsection (3), is amended by replacing the references to the expression "4/3 of" with references to the word "twice".

(8) Subsection 93(2.3) of the Act, as enacted by subsection (3), is amended by replacing the references to the fraction "3/4" with references to the fraction "1/2".

(9) Subsection 93(3) of the Act is replaced by the following:

Exempt
dividends

(3) For the purposes of subsections (2) to (2.3),

(a) a dividend received by a corporation resident in Canada is an exempt dividend to the extent of the amount in respect of the dividend that is deductible from the income of the corporation for the purpose of computing the taxable income of the corporation because of paragraph 113(1)(a), (b) or (c); and

(b) a dividend received by a particular foreign affiliate of a corporation resident in Canada from another foreign affiliate of the corporation is an exempt dividend to the extent of the amount, if any, by which the portion of the dividend that was not prescribed to have been paid out of the pre-acquisition surplus of the other affiliate exceeds the total of such portion of the income or profits tax that can reasonably be considered to have been paid in respect of that portion of the dividend by the particular affiliate or by a partnership in which the particular affiliate had, at the time of the payment of the income or profits tax, a partnership interest, either directly or indirectly.

(10) Subsections (1) to (3) and (9) apply to dispositions that occur after November 1999.

(11) Subsections (4), (5) and (7) apply to taxation years that end after February 27, 2000 except that, for a taxation year of a taxpayer that includes either February 28, 2000 or October 17, 2000 or began after February 28, 2000 and ended before October 17, 2000, the references to the word "twice" in subsection 93(2) of the Act, as enacted by subsection (5), and in subsection 93(2.2) of the Act, as enacted by subsection (7), shall be read as references to the expression "the fraction that is the reciprocal of the fraction in paragraph 38(a), as enacted by subsection 22(1) of the *Income Tax Amendments Act, 2000*, that applies to the taxpayer for the year, multiplied by".

(12) Subsections (6) and (8) apply to taxation years that end after February 27, 2000 except that, for a taxation year of a taxpayer that includes either February 28, 2000 or October 17, 2000 or began after February 28, 2000 and ended before October 17, 2000, the references to the fraction "1/2" in subsection 93(2.1) of the Act, as enacted by subsection (6), and in subsection 93(2.3) of the Act, as enacted by subsection (8), shall be read as references to the fraction in paragraph 38(a) of the Act, as enacted by subsection 22(1), that applies to the taxpayer for the year.

71. (1) The Act is amended by adding the following after section 93:

Shares held by
a partnership

93.1 (1) For the purpose of determining whether a non-resident corporation is a foreign affiliate of a corporation resident in Canada for the purposes of subsections (2) and 20(12), sections 93 and 113, paragraph 128(1)(d), (and any regulations made for the purposes of those provisions), section 95 (to the extent that that section is applied for the purposes of those provisions) and section 126, where based on the assumptions contained in paragraph 96(1)(c), at any time shares of a class of the capital stock of a corporation are owned by a partnership or are deemed under this subsection to be owned by a partnership, each member of the partnership is deemed to own at that time that number of those shares that is equal to the proportion of all those shares that

(a) the fair market value of the member's interest in the partnership at that time

is of

(b) the fair market value of all members' interests in the partnership at that time.

Where dividends
received by a
partnership

(2) Where, based on the assumptions contained in paragraph 96(1)(c), at any time shares of a class of the capital stock of a foreign affiliate of a corporation resident in Canada (in this subsection referred to as "affiliate shares") are owned by a partnership and at that time the affiliate pays a dividend on affiliate shares to the partnership (in this subsection referred to as the "partnership dividend"),

(a) for the purposes of sections 93 and 113 and any regulations made for the purposes of those sections, each member of the partnership is deemed to have received the proportion of the partnership dividend that

(i) the fair market value of the member's interest in the partnership at that time

is of

(ii) the fair market value of all members' interests in the partnership at that time;

(b) for the purposes of sections 93 and 113 and any regulations made for the purposes of those sections, the proportion of the partnership dividend deemed by paragraph (a) to have been received by a member of the partnership at that time is deemed to have been received by the member in equal proportions on each affiliate share that is property of the partnership at that time;

(c) for the purpose of applying section 113, in respect of the dividend referred to in paragraph (a), each affiliate share referred to in paragraph (b) is deemed to be owned by each member of the partnership; and

(d) notwithstanding paragraphs (a) to (c),

(i) where the corporation resident in Canada is a member of the partnership, the amount deductible by it under section 113 in respect of the dividend referred to in paragraph (a) shall not exceed the portion of the amount of the dividend included in its income pursuant to subsection 96(1), and

(ii) where another foreign affiliate of the corporation resident in Canada is a member of the partnership, the amount included in that other affiliate's income in respect of the dividend referred to in paragraph (a) shall not exceed the amount that would be included in its income pursuant to subsection 96(1) in respect of the partnership dividend received by the partnership if the value for H in the definition "foreign accrual property income" in subsection 95(1) were nil and this Act were read without reference to this subsection.

(2) Subsection 93.1(1) of the Act, as enacted by subsection (1), applies in determining whether a non-resident corporation is, at any time after November 1999, a foreign affiliate of a taxpayer and, where a taxpayer so elects and notifies the Minister of National Revenue in writing before 2002 of its election, that subsection also applies in determining (other than for the purposes

of subsection 20(12) and section 126 of the Act) whether a non-resident corporation was, at any time after 1972 and before December 1999, a foreign affiliate of the taxpayer.

(3) Subsection 93.1(2) of the Act, as enacted by subsection (1), applies in respect of dividends received after November 1999.

72. (1) Subparagraphs 94(1)(c)(i) and (ii) of the Act are replaced by the following:

(i) the trust is deemed for the purposes of this Part and sections 233.3 and 233.4 to be a person resident in Canada no part of whose taxable income is exempt because of section 149 from tax under this Part and whose taxable income for the year is the amount, if any, by which the total of

(A) the amount, if any, that would but for this subparagraph be its taxable income earned in Canada for the year,

(B) the amount that would be its foreign accrual property income for the year if

(I) except for the purpose of applying subsections 104(4) to (5.2) to days after 1998 that are determined under subsection 104(4), the trust were a non-resident corporation all the shares of which were owned by a person who was resident in Canada,

(II) the description of A in the definition "foreign accrual property income" in subsection 95(1) were, in respect of dividends received after 1998, read without reference to paragraph (b) of that description,

(III) the descriptions of B and E in that definition were, in respect of dispositions that occur after 1998, read without reference to "other than dispositions of excluded property to which none of paragraphs (2)(c), (d) and (e) apply",

(IV) the value of C in that definition were nil, and

(V) for the purposes of computing the trust's foreign accrual property income, the consequences of the application of subsections 104(4) to (5.2) applied in respect of days after 1998 that are determined under subsection 104(4),

(C) the amount, if any, by which the total of all amounts each of which is an amount required by subsection 91(1) or (3) to be included in computing its income for the year

exceeds the total of all amounts each of which is an amount deducted by it for that year under subsection 91(2), (4) or (5), and

(D) the amount, if any, required by section 94.1 to be included in computing its income for the year,

exceeds

(E) the amount, if any, by which the total of all amounts each of which is an amount deducted by it under subsection 91(2), (4) or (5) in computing its income for the year exceeds the total of all amounts each of which is an amount included in computing its income for the year because of subsection 91(1) or (3), and

(ii) for the purposes of section 126,

(A) the amount that would be determined under subparagraph (i) in respect of the trust for the year, if that subparagraph were read without reference to clause (i)(A), is deemed to be income of the trust for the year from sources in the country other than Canada in which the trust would, but for subparagraph (i), be resident, and

(B) any income or profits tax paid by the trust for the year (other than any tax paid because of this section), to the extent that it can reasonably be regarded as having been paid in respect of that income, is deemed to be non-business income tax paid by the trust to the government of that country, and

(2) Subsection (1) applies to the 1999 and subsequent taxation years.

73. (1) The formula in the definition "foreign accrual property income" in subsection 95(1) of the Act is replaced by the following:

$$(A+A.1+A.2+B+C) - (D+E+F+G+H)$$

(2) The description of A.1 in the definition "foreign accrual property income" in subsection 95(1) of the Act is amended by replacing the reference to the expression "4/3 of" with a reference to the word "twice".

(3) The description of F in the definition "foreign accrual property income" in subsection 95(1) of the Act is replaced by the following:

F is the amount prescribed to be the deductible loss of the affiliate for the year, and

(4) The definition "foreign accrual property income" in subsection 95(1) of the Act is amended by striking out the word "and" at the end of the description of F, by adding the word "and" at the end of the description of G and by adding the following after the description of G:

H is

(a) where the affiliate was a member of a partnership at the end of the fiscal period of the partnership that ended in the year and the partnership received a dividend at a particular time in that fiscal period from a corporation that was, for the purposes of sections 93 and 113, a foreign affiliate of the taxpayer at that particular time, the portion of the amount of that dividend that is included in the value of A in respect of the affiliate for the year and that is deemed by paragraph 93.1(2)(a) to have been received by the affiliate for the purposes of sections 93 and 113, and

(b) in any other case, nil;

(5) The portion of paragraph 95(2)(a.3) of the Act before subparagraph (iii) is replaced by the following:

(a.3) in computing the income from a business other than an active business for a taxation year of a foreign affiliate of a taxpayer there shall be included the income of the affiliate for the year derived directly or indirectly from indebtedness and lease obligations (which, for the purposes of this paragraph, includes the income of the affiliate for the year from the purchase and sale of indebtedness and lease obligations on its own account, but does not include excluded income)

(i) of persons resident in Canada, or

(ii) in respect of businesses carried on in Canada

unless more than 90% of the gross revenue of the affiliate derived directly or indirectly from indebtedness and lease obligations (other than excluded revenue) was derived directly or indirectly from indebtedness and lease obligations of non-resident persons with whom the affiliate deals at arm's length and, where this paragraph applies to include income of the affiliate for the year in the income of the affiliate from a business other than an active business,

(6) Paragraph 95(2)(g) of the Act is replaced by the following:

(g) where, because of a fluctuation in the value of the currency of a country other than Canada relative to the value of Canadian currency, a particular foreign affiliate of a taxpayer in respect of which the taxpayer has a qualifying interest throughout a taxation year of the particular affiliate has earned income or incurred a loss or realized a capital gain or a capital loss in the year, in reference to

(i) a debt obligation that was owing to

(A) another foreign affiliate of the taxpayer in respect of which the taxpayer has a qualifying interest throughout the year or any other non-resident corporation to which the particular affiliate and the taxpayer are related throughout the year (referred to in this paragraph as a "qualified foreign corporation"), or

(B) the particular affiliate by a qualified foreign corporation,

(ii) the redemption, cancellation or acquisition of a share of the capital stock of, or the reduction of the capital of, the particular affiliate or another foreign affiliate of the taxpayer in respect of which the taxpayer has a qualifying interest throughout the year, or

(iii) the disposition to a qualified foreign corporation of a share of the capital stock of another foreign affiliate of the taxpayer in respect of which the taxpayer has a qualifying interest throughout the year,

that income, gain or loss, as the case may be, is deemed to be nil;

(7) Subsection 95(2) of the Act is amended by adding the following after paragraph (g.1):

(g.2) for the purpose of computing the foreign accrual property income of a foreign affiliate of any taxpayer resident in Canada for a taxation year of the affiliate, an election made pursuant to paragraph 86.1(2)(f) in respect of a distribution received by the affiliate in a particular taxation year of the affiliate is deemed to have been filed under that paragraph by the affiliate if

(i) where there is only one taxpayer resident in Canada in respect of whom the affiliate is a controlled foreign affiliate, the election is filed by the taxpayer with the taxpayer's return of income for the taxpayer's taxation year in which the particular year of the affiliate ends, and

(ii) where there is more than one taxpayer resident in Canada in respect of whom the affiliate is a controlled foreign affiliate, all of those taxpayers jointly elect in writing and each of them files the joint election with the Minister with their return of income for their taxation year in which the particular year of the affiliate ends;

(8) Paragraph 95(2)(h) of the Act is repealed.

(9) The portion of subsection 95(2.2) of the Act before paragraph (a) is replaced by the following:

Rule for
subsection (2)

(2.2) For the purpose of subsection (2),

(10) Subsection 95(2.5) of the Act is amended by adding the following in alphabetical order:

"excluded
income" and
"excluded
revenue"
« *revenu exclu*
»

"excluded income" and "excluded revenue" for a taxation year in respect of a foreign affiliate of a taxpayer mean, respectively, income or revenue, that is

(a) derived directly or indirectly from a specified deposit with a prescribed financial institution,

(b) derived directly or indirectly from a lease obligation of a person (other than the taxpayer or a person that does not deal at arm's length with the taxpayer) relating to the use of property outside Canada, or

(c) included in computing the affiliate's income for the year from carrying on a business through a permanent establishment in Canada;

(11) The portion of paragraph 95(6)(a) of the Act before subparagraph (i) is replaced by the following:

(a) where any person or partnership has a right under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, shares of

the capital stock of a corporation or interests in a partnership and

(12) Subparagraph 95(6)(a)(ii) of the Act is replaced by the following:

(ii) it can reasonably be considered that the principal purpose for the existence of the right is to permit any person to avoid, reduce or defer the payment of tax or any other amount that would otherwise be payable under this Act, those shares or partnership interests, as the case may be, are deemed to be owned by that person or partnership; and

(13) Paragraph 95(6)(b) of the Act is replaced by the following:

(b) where a person or partnership acquires or disposes of shares of the capital stock of a corporation or interests in a partnership, either directly or indirectly, and it can reasonably be considered that the principal purpose for the acquisition or disposition is to permit a person to avoid, reduce or defer the payment of tax or any other amount that would otherwise be payable under this Act, that acquisition or disposition is deemed not to have taken place, and where the shares or partnership interests were unissued by the corporation or partnership immediately before the acquisition, those shares or partnership interests, as the case may be, are deemed not to have been issued.

(14) Subsections (1), (4) and (11) to (13) apply after November 1999.

(15) Subsection (2) applies to taxation years that end after February 27, 2000 except that, where a taxation year of a foreign affiliate of a taxpayer includes either February 28, 2000 or October 17, 2000 or began after February 28, 2000 and ended before October 17, 2000, the reference to the word "twice" in the description of A.1 in the definition "foreign accrual property income" in subsection 95(1) of the Act, as enacted by subsection (2), shall be read as a reference to the expression "the fraction that is the reciprocal of the fraction in paragraph 38(a), as enacted by subsection 22(1) of the *Income Tax Amendments Act, 2000*, that applies to the foreign affiliate for the year, multiplied by".

(16) Subsection (3) applies to taxation years of foreign affiliates that begin after November 1999.

(17) Subsections (5) and (10) apply to taxation years of foreign affiliates that begin after 1999 except that, where a taxpayer so elects in writing and files the election with the Minister of National Revenue on or before the taxpayer's filing-due date for

the taxation year that includes the day on which this Act receives royal assent, paragraph 95(2)(a.3) of the Act, as enacted by subsection (5), and subsection 95(2.5) of the Act, as enacted by subsection (10), apply to taxation years, of all of the taxpayer's foreign affiliates, that begin after 1994 except that, where there has been a change in the taxation year of a particular foreign affiliate of a taxpayer in 1994 and after February 22, 1994, the enacted provisions apply to taxation years of the particular foreign affiliate of the taxpayer that end after 1994, unless

(a) the particular foreign affiliate had requested that change in the taxation year in writing before February 22, 1994 from the income taxation authority of the country in which it was resident and subject to income taxation; or

(b) the first taxation year of the particular foreign affiliate that began after 1994 began at a time in 1995 that is earlier than the time that it would have begun if there had not been that change in the taxation year of the particular foreign affiliate,

and, notwithstanding subsections 152(4) to (5) of the Act, any assessment of a taxpayer's tax payable under the Act for any of those taxation years shall be made that is necessary to take into account the application of subsections (5) and (10).

(18) Subsections (6), (8) and (9) apply to taxation years of a foreign affiliate of a taxpayer that begin after November 1999 except that, where the taxpayer so elects in writing and files the election with the Minister of National Revenue on or before the day of the taxpayer's filing-due date for the taxation year that includes the day on which this Act receives royal assent, those subsections apply to taxation years, of all of its foreign affiliates, that began after 1994 and, notwithstanding subsections 152(4) to (5) of the Act, any assessment of a taxpayer's tax payable under the Act for any of those taxation years shall be made that is necessary to take into account the application of subsections (6), (8) and (9).

(19) Subsection (7) applies to distributions received after 1997 except that the election referred to in paragraph 95(2)(g.2) of the Act, as enacted by subsection (7), is deemed to be filed on a timely basis if it is filed with the Minister of National Revenue before the day that is 90 days after the day on which this Act receives royal assent.

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

(d) each income or loss of the partnership for a taxation year were computed as if

(i) this Act were read without reference to paragraphs 12(1)(z.5) and 20(1)(v.1), section 34.1, subsection 59(1), paragraph 59(3.2)(c.1) and subsections 66.1(1), 66.2(1) and 66.4(1), and

(ii) no deduction were permitted under any of section 29 of the *Income Tax Application Rules*, subsections 34.2(4) and 65(1) and sections 66, 66.1, 66.2, 66.21 and 66.4;

(2) The portion of subsection 96(1.7) of the Act before the formula is replaced by the following:

Gains and
losses

(1.7) Notwithstanding subsection (1) or section 38, where in a particular taxation year of a taxpayer, the taxpayer is a member of a partnership with a fiscal period that ends in the particular year, the amount of a taxable capital gain (other than that part of the amount that can reasonably be attributed to an amount deemed under subsection 14(1.1) to be a taxable capital gain of the partnership), allowable capital loss or allowable business investment loss of the taxpayer for the particular year determined in respect of the partnership is the amount determined by the formula

(3) The description of A in subsection 96(1.7) of the Act is replaced by the following:

A is the amount of the taxpayer's taxable capital gain (other than that part of the amount that can be attributed to an amount deemed under subsection 14(1.1) to be a taxable capital gain of the partnership), allowable capital loss or allowable business investment loss, as the case may be, for the particular year otherwise determined under this section in respect of the partnership;

(4) Section 96 of the Act is amended by adding the following after subsection (1.7):

Application

(1.71) Where the fraction referred to in the description of C in subsection (1.7) cannot be determined by a taxpayer in respect of a fiscal period of a partnership that ended before February 28, 2000 or includes either February 28, 2000 or October 17, 2000, for the purposes of subsection (1.7), the fraction is deemed to be

(a) where the fiscal period ended before or began before February 28, 2000, $\frac{3}{4}$;

(b) where the fiscal period began after February 27, 2000 and before October 18, 2000, 2/3; and

(c) in any other case, 1/2.

(5) Clause 96(2.1)(b)(iv)(A) of the Act is replaced by the following:

(A) the foreign resource pool expenses, if any, incurred by the partnership in the fiscal period,

(6) Paragraph 96(2.4)(a) of the Act is replaced by the following:

(a) by operation of any law governing the partnership arrangement, the liability of the member as a member of the partnership is limited (except by operation of a provision of a statute of Canada or a province that limits the member's liability only for debts, obligations and liabilities of the partnership, or any member of the partnership, arising from negligent acts or omissions or misconduct that another member of the partnership or an employee, agent or representative of the partnership commits in the course of the partnership business while the partnership is a limited liability partnership);

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

Agreement or
election of
partnership
members

(3) Where a taxpayer who was a member of a partnership at any time in a fiscal period has, for any purpose relevant to the computation of the taxpayer's income from the partnership for the fiscal period, made or executed an agreement, designation or election under or in respect of the application of any of subsections 13(4) and (16) and 14(6), section 15.2, subsections 20(9) and 21(1) to (4), section 22, subsection 29(1), section 34, clause 37(8)(a)(ii)(B), subsections 44(1) and (6), 50(1) and 80(5), (9), (10) and (11), section 80.04, subsections 86.1(2), 97(2), 139.1(16) and (17) and 249.1(4) and (6) that, but for this subsection, would be a valid agreement, designation or election,

(8) Subsections (1), (3), (4) and (5) apply to fiscal periods that begin after 2000.

(9) Subsection (2) applies to taxation years that end after February 27, 2000.

(10) Subsection (6) applies after 1997.

(11) Subsection (7) applies after 1999.

75. (1) Subparagraph 98(3)(g)(iii) of the Act is replaced by the following:

(iii) for the purpose of determining after the particular time the amount required by paragraph 14(1)(b) to be included in computing the person's income in respect of any subsequent disposition of property of the business, the value determined for Q in the definition "cumulative eligible capital" in subsection 14(5) is deemed to be the amount, if any, of that person's percentage of the value determined for Q in that definition in respect of the partnership's business immediately before the particular time.

(2) Subparagraph 98(5)(h)(ii) of the Act is replaced by the following:

(ii) for the purpose of determining after the particular time the amount required by paragraph 14(1)(b) to be included in computing the proprietor's income in respect of any subsequent disposition of property of the business, the value determined for Q in the definition "cumulative eligible capital" in subsection 14(5) is deemed to be the value, if any, determined for Q in that definition in respect of the partnership's business immediately before the particular time.

(3) Subsections (1) and (2) apply in respect of taxation years that end after February 27, 2000.

76. (1) Paragraph 100(1)(a) of the Act is amended by replacing the reference to the fraction "3/4" with a reference to the fraction "1/2".

(2) Subsection (1) applies to taxation years that end after February 27, 2000 except that, where a taxation year of a taxpayer includes either February 28, 2000 or October 17, 2000 or began after February 28, 2000 and ended before October 17, 2000, the reference to the fraction "1/2" in paragraph 100(1)(a) of the Act, as enacted by subsection (1), shall be read as a reference to the fraction in paragraph 38(a) of the Act, as enacted by subsection 22(1), that applies to the taxpayer for the year.

77. (1) Section 101 of the Act is amended by replacing the reference to the fraction "3/4" with a reference to the fraction "1/2" and by replacing the reference to the expression "4/3 of" with a reference to the word "twice".

(2) Subsection (1) applies to taxation years that end after February 27, 2000 except that, in applying section 101 of the Act, as enacted by subsection (1), to a taxpayer's taxation year that includes either February 28, 2000 or October 17, 2000 or began after February 28, 2000 and ended before October 17, 2000,

(a) the reference to the fraction "1/2" in section 101 of the Act, as enacted by subsection (1), shall be read as a reference to the fraction in paragraph 38(a) of the Act, as enacted by subsection 22(1), that applies to the taxpayer for the year; and

(b) the reference to the word "twice" in section 101 of the Act, as enacted by subsection (1), shall be read as a reference to the expression "the fraction that is the reciprocal of the fraction in paragraph 38(a), as enacted by subsection 22(1) of the *Income Tax Amendments Act, 2000*, that applies to the taxpayer for the year, multiplied by".

78. (1) Subsection 104(1) of the Act is replaced by the following:

Reference to
trust or estate

104. (1) In this Act, a reference to a trust or estate (in this subdivision referred to as a "trust") shall, unless the context otherwise requires, be read to include a reference to the trustee, executor, administrator, liquidator of a succession, heir or other legal representative having ownership or control of the trust property, but, except for the purposes of this subsection, subsection (1.1), subparagraph (b)(v) of the definition "disposition" in subsection 248(1) and paragraph (k) of that definition, a trust is deemed not to include an arrangement under which the trust can reasonably be considered to act as agent for all the beneficiaries under the trust with respect to all dealings with all of the trust's property unless the trust is described in any of paragraphs (a) to (e.1) of the definition "trust" in subsection 108(1).

Restricted
meaning of
"beneficiary"

(1.1) Notwithstanding subsection 248(25.1) and for the purposes of subsection (1), paragraph (4)(a.4), subparagraph 73(1.02)(b)(ii) and paragraph 107.4(1)(e), a person or partnership is deemed not to be a beneficiary under a trust at a particular time where the person or partnership is beneficially interested in the trust at the particular time solely because of

(a) a right that may arise as a consequence of the terms of the will or other testamentary instrument of an individual who, at the particular time, is a beneficiary under the trust;

(b) a right that may arise as a consequence of the law governing the intestacy of an individual who, at that time, is a beneficiary under the trust;

(c) a right as a shareholder under the terms of the shares of the capital stock of a corporation that, at the particular time, is a beneficiary under the trust;

(d) a right as a member of a partnership under the terms of the partnership agreement, where, at the particular time, the partnership is a beneficiary under the trust; or

(e) any combination of rights described in paragraphs (a) to (d).

(2) The portion of subsection 104(4) of the Act before paragraph (a) is replaced by the following:

Deemed
disposition by
trust

(4) Every trust is, at the end of each of the following days, deemed to have disposed of each property of the trust (other than exempt property) that was capital property (other than excluded property or depreciable property) or land included in the inventory of a business of the trust for proceeds equal to its fair market value (determined with reference to subsection 70(5.3)) at the end of that day and to have reacquired the property immediately after that day for an amount equal to that fair market value, and for the purposes of this Act those days are

(3) Paragraph 104(4)(a) of the Act is amended by striking out the word "or" at the end of subparagraph (i.1), by adding the word "or" at the end of subparagraph (ii) and by replacing the portion after subparagraph (ii) with the following:

(ii.1) is a trust (other than a trust the terms of which are described in clause (iv)(A) that elects in its return of income under this Part for its first taxation year that this subparagraph not apply) that was created after 1999 by a taxpayer during the taxpayer's lifetime and that, at any time after 1999, was a trust

under which

(iii) the taxpayer's spouse or common-law partner was entitled to receive all of the income of the trust that arose before the spouse's or common-law partner's death and no person except the spouse or common-law partner could, before the spouse's or common-law partner's death, receive or otherwise obtain the use of any of the income or capital of the trust, or

(iv) in the case of a trust described in subparagraph (ii.1) created by a taxpayer who had attained 65 years of age at the time the trust was created,

(A) the taxpayer was entitled to receive all of the income of the trust that arose before the taxpayer's death and no person except the taxpayer could, before the taxpayer's death, receive or otherwise obtain the use of any of the income or capital of the trust,

(B) the taxpayer or the taxpayer's spouse was, in combination with the spouse or the taxpayer, as the case may be, entitled to receive all of the income of the trust that arose before the later of the death of the taxpayer and the death of the spouse and no other person could, before the later of those deaths, receive or otherwise obtain the use of any of the income or capital of the trust, or

(C) the taxpayer or the taxpayer's common-law partner was, in combination with the common-law partner or the taxpayer, as the case may be, entitled to receive all of the income of the trust that arose before the later of the death of the taxpayer and the death of the common-law partner and no other person could, before the later of those deaths, receive or otherwise obtain the use of any of the income or capital of the trust,

the day on which the death or the later death, as the case may be, occurs;

(4) Subsection 104(4) of the Act is amended by adding the following after paragraph (a.1):

(a.2) where the trust makes a distribution to a beneficiary in respect of the beneficiary's capital interest in the trust, it is reasonable to conclude that the distribution was financed by a liability of the trust and one of the purposes of incurring the liability was to avoid taxes otherwise payable under this Part as a consequence of the death of any individual, the day on which the distribution is made (determined as if a day ends for the trust immediately after the time at which each distribution is made by the trust to a beneficiary in respect of the beneficiary's capital interest in the trust);

(a.3) where property (other than property described in any of subparagraphs 128.1(4)(b)(i) to (iii)) has been transferred by a taxpayer after December 17, 1999 to the trust in circumstances to which subsection 73(1) applied, it is reasonable to conclude that the property was so transferred in anticipation that the taxpayer would subsequently cease to reside in Canada and the taxpayer subsequently ceases to reside in Canada, the first day after that transfer during which the taxpayer ceases to reside in Canada (determined as if a day ends for the trust immediately after each time at which the taxpayer ceases to be resident in Canada);

(a.4) where the trust is a trust to which property was transferred by a taxpayer who is an individual (other than a trust) in circumstances in which section 73 or subsection 107.4(3) applied, the transfer did not result in a change in beneficial ownership of that property and no person (other than the taxpayer) or partnership has any absolute or contingent right as a beneficiary under the trust (determined with reference to subsection (1.1)), the day on which the death of the taxpayer occurs;

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

(iii) where applicable, the time determined under paragraph (a), (a.1) or (a.4) as those paragraphs applied from time to time after 1971; and

(6) Paragraph 104(4)(c) of the Act is replaced by the following:

(c) the day that is 21 years after any day (other than a day determined under any of paragraphs (a) to (a.4)) that is, because of this subsection, a day on which the trust is deemed to have disposed of each such property.

(7) The portion of subsection 104(5) of the Act before paragraph (a) is replaced by the following:

Depreciable
property

(5) Every trust is, at the end of each day determined under subsection (4) in respect of the trust, deemed to have disposed of each property of the trust (other than exempt property) that was a depreciable property of a prescribed class of the trust for proceeds equal to its fair market value at the end of that day and to have reacquired the property immediately after that day at a capital cost (in this subsection referred to as the "deemed capital cost") equal to that fair market value, except that

(8) The portion of subsection 104(5.2) of the Act before paragraph (b) is replaced by the following:

Resource
property

(5.2) Where at the end of a day determined under subsection (4) in respect of a trust, the trust owns a Canadian resource property (other than an exempt property) or a foreign resource property (other than an exempt property),

(a) for the purposes of determining the amounts under subsection 59(1), paragraphs 59(3.2)(c) and (c.1), subsections 66(4) and 66.2(1), the definition "cumulative Canadian development expense" in subsection 66.2(5), the definition "cumulative foreign resource expense" in subsection 66.21(1), subsection 66.4(1) and the definition "cumulative Canadian oil and gas property expense" in subsection 66.4(5), the trust is deemed

(i) to have a taxation year (in this subsection referred to as the "old taxation year") that ended at the end of that day and a new taxation year that begins immediately after that day, and

(ii) to have disposed, immediately before the end of the old taxation year, of each of those properties for proceeds that became receivable at that time equal to its fair market value at that time and to have reacquired, at the beginning of the new taxation year, each such property for an amount equal to that fair market value; and

(9) Paragraph 104(5.2)(b) of the Act is amended by striking out the word "and" at the end of subparagraph (i) and by adding the following after subparagraph (i):

(i.1) include in computing its income for the particular taxation year the amount, if any, determined under paragraph 59(3.2)(c.1) in respect of the old taxation year and the amount so included is, for the purpose of determining the value of B in the definition "cumulative foreign resource expense" in subsection 66.21(1), deemed to have been included in computing its income for a preceding taxation year, and

(10) Subsection 104(5.3) of the Act is amended by adding the word "and" at the end of paragraph (b.1) and by replacing the portion of paragraph (c) before subparagraph (i) with the following:

(c) subsection 107.4(3) does not apply to a disposition by the trust during the period

(11) Subsection 104(5.3) of the Act is amended by striking out the word "and" at the end of paragraph (c) and by repealing paragraph (d).

(12) The portion of subsection 104(5.8) of the Act before paragraph (a) is replaced by the following:

Trust transfers

(5.8) Where capital property (other than excluded property), land included in inventory, Canadian resource property or foreign resource property is transferred at a particular time by a trust (in this subsection referred to as the "transferor trust") to another trust (in this subsection referred to as the "transferee trust") in circumstances in which subsection 107(2) or 107.4(3) or paragraph (f) of the definition "disposition" in subsection 248(1) applies,

(13) The portion of subparagraph 104(5.8)(a)(i) of the Act before clause (A) is replaced by the following:

(i) subject to paragraphs (b) to (b.3), the first day (in this subsection referred to as the "disposition day") that ends at or after the particular time that would, if this section were read without reference to paragraphs (4)(a.2) and (a.3), be determined in respect of the transferee trust is deemed to be the earliest of

(14) Clause 104(5.8)(a)(i)(C) of the Act is replaced by the following:

(C) the first day that ends at or after the particular time, where

(I) the transferor trust is a joint spousal or common-law partner trust, a post-1971 spousal or common-law partner trust or a trust described in the definition "pre-1972 spousal trust" in subsection 108(1), and

(II) the spouse or common-law partner referred to in paragraph (4)(a) or in the definition "pre-1972 spousal trust" in subsection 108(1) is alive at the particular time,

(C.1) the first day that ends at or after the particular time, where

(I) the transferor trust is an *alter ego* trust, a trust to which paragraph (4)(a.4) applies or a joint spousal or common-law partner trust, and

(II) the taxpayer referred to in paragraph (4)(a) or (a.4), as the case may be, is alive at the particular time, and

(15) Paragraph 104(5.8)(b) of the Act is replaced by the following:

(b) paragraph (a) does not apply in respect of the transfer where

(i) the transferor trust is a post-1971 spousal or common-law partner trust or a trust described in the definition "pre-1972 spousal trust" in subsection 108(1),

(ii) the spouse or common-law partner referred to in paragraph (4)(a) or in the definition "pre-1972 spousal trust" in subsection 108(1) is alive at the particular time, and

(iii) the transferee trust is a post-1971 spousal or common-law partner trust or a trust described in the definition "pre-1972 spousal trust" in subsection 108(1);

(b.1) paragraph (a) does not apply in respect of the transfer where

(i) the transferor trust is an *alter ego* trust,

(ii) the taxpayer referred to in paragraph (4)(a) is alive at the particular time, and

(iii) the transferee trust is an *alter ego* trust;

(b.2) paragraph (a) does not apply in respect of the transfer where

(i) the transferor trust is a joint spousal or common-law partner trust,

(ii) either the taxpayer referred to in paragraph (4)(a), or the spouse or common-law partner referred to in that paragraph, is alive at the particular time, and

(iii) the transferee trust is a joint spousal or common-law partner trust;

(b.3) paragraph (a) does not apply in respect of the transfer where

(i) the transferor trust is a trust to which paragraph (4)(a.4) applies,

(ii) the taxpayer referred to in paragraph (4)(a.4) is alive at the particular time, and

(iii) the transferee trust is a trust to which paragraph (4)(a.4) applies; and

(16) Subsection 104(6) of the Act is amended by striking out the word "and" at the end of paragraph (a.2) and by adding the following after paragraph (a.2):

(a.3) in the case of an *inter vivos* trust deemed by subsection 143(1) to exist in respect of a congregation that is a constituent part of a religious organization, such part of its income for the year as became payable in the year to a beneficiary; and

(17) Clauses 104(6)(b)(ii)(A) and (B) of the Act are replaced by the following:

(A) is a post-1971 spousal or common-law partner trust that was created after December 20, 1991, or

(B) would be a post-1971 spousal or common-law partner trust if the reference in paragraph (4)(a) to "at the time it was created" were read as "on December 20, 1991",

(18) Paragraph 104(6)(b) of the Act is amended by striking out the word "and" at the end of subparagraph (ii) and by replacing subparagraph (iii) with the following:

(ii.1) where the trust is an *alter ego* trust or a joint spousal or common-law partner trust and the death or later death, as the case may be, referred to in subparagraph (4)(a)(iv) has not occurred before the end of the year, such part of the amount that, but for this subsection and subsections (12), 12(10.2) and 107(4), would be its income as became payable in the year to a beneficiary (other than a taxpayer, spouse or common-law partner referred to in clause (4)(a)(iv)(A), (B) or (C)) or was included under subsection 105(2) in computing the income of a beneficiary (other than such a taxpayer, spouse or common-law partner), and

(iii) where the trust is an *alter ego* trust, a joint spousal or common-law partner trust, a trust to which paragraph (4)(a.4) applies or a post-1971 spousal or common-law partner trust and the death or the later death, as the case may be, referred to in paragraph (4)(a) or (a.4) in respect of the trust occurred on a day in the year, the amount, if any, by which

(A) the maximum amount that would be deductible under this subsection in computing the trust's income for the year if this subsection were read without reference to this subparagraph

exceeds the total of

(B) the amount that, but for this subsection and subsections (12), 12(10.2) and 107(4), would be its income that became payable in the year to the taxpayer, spouse or common-law partner referred to in subparagraph (4)(a)(iii), clause (4)(a)(iv)(A), (B) or (C) or paragraph (4)(a.4), as the case may be, and

(C) the amount that would be the trust's income for the year if that income were computed without reference to this subsection and subsection (12) and as if the year began immediately after the end of the day.

(19) Subsection 104(13) of the Act is replaced by the following:

Income of
beneficiary

(13) There shall be included in computing the income for a particular taxation year of a beneficiary under a trust such of the following amounts as are applicable:

(a) in the case of a trust (other than a trust referred to in paragraph (a) of the definition "trust" in subsection 108(1)), such part of the amount that, but for subsections (6) and (12), would be the trust's income for the trust's taxation year that ended in the particular year as became payable in the trust's year to the beneficiary; and

(b) in the case of a trust governed by an employee benefit plan to which the beneficiary has contributed as an employer, such part of the amount that, but for subsections (6) and (12), would be the trust's income for the trust's taxation year that ended in the particular year as was paid in the trust's year to the beneficiary.

(20) Paragraphs 104(15)(a) and (b) of the Act are replaced by the following:

(a) where the trust is an *alter ego* trust, a joint spousal or common-law partner trust, a post-1971 spousal or common-law partner trust or a trust described in the definition "pre-1972 spousal trust" in subsection 108(1) at the end of the year and a

beneficiary, referred to in paragraph (4)(a) or in that definition, is alive at the end of the year, an amount equal to

(i) if the preferred beneficiary is a beneficiary so referred to, the trust's accumulating income for the year, and

(ii) in any other case, nil;

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

(21) The portion of subsection 104(19) of the Act after paragraph (b) is replaced by the following:

<?[ip0n,0n]>is, if so designated by the trust in respect of the beneficiary in its return of income for the year, deemed, for the purposes of paragraphs 82(1)(b) and 107(1)(c) and (d) and section 112, not to have been received by the trust, and for the purposes of this Act (other than Part XIII), to be a taxable dividend on the share received by the beneficiary in the particular year from the corporation.

(22) The portion of subsection 104(21.2) of the Act before paragraph (a) is replaced by the following:

Beneficiaries'
taxable capital
gain

(21.2) Where, for the purposes of subsection (21), a personal trust or a trust referred to in subsection 7(2) designates an amount in respect of a beneficiary in respect of its net taxable capital gains for a taxation year (in this subsection referred to as the "designation year"),

(23) Section 104 of the Act is amended by adding the following after subsection (21.3):

Deemed gains

(21.4) Where an amount is designated in respect of a beneficiary by a trust for a particular taxation year of the trust that includes either February 28, 2000 or October 17, 2000 and that amount is, because of subsection (21), deemed to be a taxable capital gain of the beneficiary from the disposition of capital property for the taxation year of the beneficiary in which the

particular taxation year of the trust ends (in this subsection referred to as the "allocated gain"),

(a) the beneficiary is deemed to have realized capital gains (in this subsection referred to as the "deemed gains") from the disposition of capital property in the beneficiary's taxation year in which the particular taxation year ends equal to the amount, if any, by which

(i) the amount determined when the amount of the allocated gain is divided by the fraction in paragraph 38(a) that applies to the trust for the particular taxation year

exceeds

(ii) the amount claimed by the beneficiary not exceeding the beneficiary's exempt capital gains balance for the year in respect of the trust;

(b) notwithstanding subsection (21) and except as a consequence of the application of paragraph (a), the amount of the allocated gain shall not be included in computing the beneficiary's income for the beneficiary's taxation year in which the particular taxation year ends;

(c) the trust shall disclose to the beneficiary in prescribed form the portion of the deemed gains that are in respect of capital gains realized on dispositions of property that occurred before February 28, 2000, after February 27, 2000 and before October 18, 2000, and after October 17, 2000 and, if it does not do so, the deemed gains are deemed to be in respect of capital gains realized on dispositions of property that occurred before February 28, 2000; and

(d) where a trust so elects under this paragraph in its return of income for the year,

(i) the portion of the deemed gains that are in respect of capital gains from dispositions of property that occurred before February 28, 2000 is deemed to be that proportion of the deemed gains that the number of days that are in the particular year and before February 28, 2000 is of the number of days that are in the particular year,

(ii) the portion of the deemed gains that are in respect of capital gains from dispositions of property that occurred in the year and in the period that began at the beginning of February 28, 2000 and ended at the end of October 17, 2000, is deemed to be that proportion of the deemed gains that the

number of days that are in the year and in that period is of the number of days that are in the particular year, and

(iii) the portion of the deemed gains that are in respect of capital gains from dispositions of property that occurred in the year and in the period that begins at the beginning of October 18, 2000 and ends at the end of the particular year, is deemed to be that proportion of the deemed gains that the number of days that are in the year and in that period is of the number of days that are in the particular year; and

(e) no amount may be claimed by the beneficiary under subsection 39.1(3) in respect of the allocated gain.

Deemed gains

(21.5) Where no amount is designated by a trust under subsection (21) in respect of its net taxable capital gains for a taxation year that includes either February 28, 2000 or October 17, 2000, the trust has net capital gains or net capital losses from the disposition of property in the year, and the trust so elects under this subsection in its return of income for the year

(a) the portion of the net capital gains or net capital losses that are in respect of capital gains and losses from dispositions of property that occurred before February 28, 2000 is deemed to be that proportion of the net capital gains or net capital losses, as the case may be, that the number of days that are in the year and before February 28, 2000 is of the number of days that are in the year,

(b) the portion of the net capital gains or net capital losses that are in respect of capital gains and losses from dispositions of property that occurred in the year and in the period that began at the beginning of February 28, 2000 and ended at the end of October 17, 2000, is deemed to be that proportion of the net capital gains or net capital losses, as the case may be, that the number of days that are in the year and in that period is of the number of days that are in the year, and

(c) the portion of the net capital gains or net capital losses that are in respect of capital gains and losses from dispositions of property that occurred in the year and in the period that began at the beginning of October 18, 2000 and ended at the end of the year, is deemed to be that proportion of the net capital gains or net capital losses, as the case may be, that the number of days that are in the year and in that period is of the number of days that are in the year,

and, for the purpose of this subsection,

(d) the net capital gains of a trust from dispositions of property in a year is the amount, if any, by which the trust's capital gains from dispositions of property in the year exceeds the trust's capital losses from dispositions of property in the year, and

(e) the net capital losses of a trust from dispositions of property in a year is the amount, if any, by which the trust's capital losses from dispositions of property in the year exceeds the trust's capital gains from dispositions of property in the year.

Deemed gains

(21.6) Where a taxation year of a taxpayer begins after October 17, 2000 and the taxpayer is deemed by subsection (21.4) to have realized capital gains from the disposition of capital property in the year in respect of dispositions of property by a trust of which the taxpayer is a beneficiary,

(a) where the deemed gains are in respect of capital gains of the trust from dispositions of property before February 28, 2000, 3/2 of those deemed gains are deemed to be capital gains of the taxpayer from the disposition by the taxpayer of capital property in the year;

(b) where the deemed gains are in respect of capital gains of the trust from dispositions of property after February 27, 2000 and before October 18, 2000, 4/3 of those deemed gains are deemed to be capital gains of the taxpayer from the disposition of capital property by the taxpayer in the year; and

(c) in any other case, the deemed gains are deemed to be capital gains of the taxpayer from the disposition of capital property by the taxpayer in the year.

(24) Subsection (1) applies to the 1998 and subsequent taxation years except that, in connection with transfers of property that occur before December 24, 1998, subsection 104(1) of the Act, as enacted by subsection (1), shall be read as follows:

104. (1) In this Act, a reference to a trust or estate (in this subdivision referred to as a "trust") shall, unless the context otherwise requires, be read to include a reference to the trustee, executor, administrator, liquidator of the succession, heir or other legal representative having ownership or control of the trust property.

(25) Subsection (2) applies

(a) to days after December 23, 1998 that are determined in respect of a trust under subsection 104(4) of the Act, as enacted by this section; and

(b) for the purpose of determining the cost amount to a trust after December 23, 1998 of property, to days after 1992 that are determined in respect of the trust under subsection 104(4) of the Act, as enacted by this section.

(26) Subsections (3), (6) and (17) to (19) apply to the 2000 and subsequent taxation years except that, with regard to a trust created by a taxpayer at a particular time in 2000 for the benefit of another individual,

(a) subparagraph 104(4)(a)(iii) of the Act, as enacted by subsection (3), shall be read without reference to the words "or common-law partner" and "or common-law partner's"; and

(b) subparagraph 104(4)(a)(iv) of the Act, as enacted by subsection (3), shall be read without reference to clause (C),

unless, because of an election made under section 144 of the *Modernization of Benefits and Obligations Act*, sections 130 to 142 of that Act applied at the particular time to the taxpayer and the other individual.

(27) Paragraphs 104(4)(a.2) and (a.3) of the Act, as enacted by subsection (4), apply to days after December 17, 1999 that are determined in respect of the trust under subsection 104(4) of the Act, as enacted by this section.

(28) Paragraph 104(4)(a.4) of the Act, as enacted by subsection (4), and subsection (5) apply to the 2000 and subsequent taxation years, and, where a trust elects in writing and files the election with the Minister of National Revenue on or before March 31, 2001 (or at any later time that is acceptable to the Minister), both of those provisions apply after December 23, 1998.

(29) Subsections (7) and (8) apply to days after December 23, 1998 that are determined under subsection 104(4) of the Act, as enacted by this section, except that in applying paragraph 104(5.2)(a) of the Act, as enacted by subsection (8), to days that are in taxation years that begin before 2001 and that are determined under subsection 104(4) of the Act, that paragraph shall be read without the references to paragraph 59(3.2)(c.1) of the Act and the definition "cumulative foreign resource expense" in subsection 66.21(1) of the Act.

(30) Subsection (9) applies to taxation years that begin after 2000.

(31) Subsections (10) and (11) apply to transfers made after December 23, 1998.

(32) Subsection (12) applies to transfers made after February 11, 1991 except that, for transfers made before December 24, 1998, the portion of subsection 104(5.8) of the Act before paragraph (a), as enacted by subsection (12), shall be read as follows:

(5.8) Where capital property (other than excluded property), land included in inventory, Canadian resource property or foreign resource property is transferred at a particular time by a trust (in this subsection referred to as the "transferor trust") to another trust (in this subsection referred to as the "transferee trust") in circumstances in which paragraph (e) of the definition "disposition" in section 54 or subsection 107(2) applies and the transferee trust is not described in paragraph (g) of the definition "trust" in subsection 108(1),

(33) Subsection (13) applies to transfers made after December 17, 1999.

(34) Subsections (14) and (15) apply to transfers made after 1999.

(35) Subsection (16) applies to the 1998 and subsequent taxation years.

(36) Subsection (20) applies to the 2000 and subsequent taxation years.

(37) Subsection (21) applies to taxation years that end after 2000.

(38) Subsection (22) applies to taxation years, of trusts, that begin after February 22, 1994.

(39) Subsection (23) applies to taxation years that end after February 27, 2000.

79. (1) Subsection 106(1.1) of the Act is replaced by the following:

Cost of income
interest in a
trust

(1.1) The cost to a taxpayer of an income interest of the taxpayer in a trust is deemed to be nil unless

(a) any part of the interest was acquired by the taxpayer from a person who was the beneficiary in respect of the interest immediately before that acquisition; or

(b) the cost of any part of the interest would otherwise be determined not to be nil under paragraph 128.1(1)(c) or (4)(c).

(2) Paragraph 106(2)(a) of the Act is replaced by the following:

(a) except where subsection (3) applies to the disposition, there shall be included in computing the taxpayer's income for the year the amount, if any, by which

(i) the proceeds of disposition

exceed

(ii) where that interest includes a right to enforce payment of an amount by the trust, the amount in respect of that right that has been included in computing the taxpayer's income for a taxation year because of subsection 104(13);

(3) Subsections (1) and (2) apply to the 2000 and subsequent taxation years.

80. (1) The portion of paragraph 107(1)(a) of the Act before subparagraph (i) is replaced by the following:

(a) where the trust is a personal trust or a prescribed trust, for the purpose of computing the taxpayer's capital gain, if any, from the disposition, the adjusted cost base to the taxpayer of the interest or the part of the interest, as the case may be, immediately before the disposition is, unless any part of the interest has ever been acquired for consideration and, at the time of the disposition, the trust is non-resident, deemed to be the greater of

(2) Paragraph 107(1)(b) of the Act is repealed.

(3) The portion of subsection 107(1) of the Act after paragraph (d) is repealed.

(4) Subsection 107(1.1) of the Act is replaced by the following:

Cost of capital
interest in a
trust

(1.1) The cost to a taxpayer of a capital interest of the taxpayer in a personal trust or a prescribed trust is deemed to be,

(a) where the taxpayer elected under subsection 110.6(19) in respect of the interest and the trust does not elect under that subsection in respect of any property of the trust, the taxpayer's cost of the interest determined under paragraph 110.6(19)(a); and

(b) in any other case, nil, unless

(i) any part of the interest was acquired by the taxpayer from a person who was the beneficiary in respect of the interest immediately before that acquisition, or

(ii) the cost of any part of the interest would otherwise be determined not to be nil under section 48 as it read in its application before 1993 or under paragraph 111(4)(e) or 128.1(1)(c) or (4)(c).

(5) The portion of subsection 107(2) of the Act before paragraph (a) is replaced by the following:

Distribution by
personal trust

(2) Subject to subsection (2.001), where at any time a property of a personal trust or a prescribed trust is distributed by the trust to a taxpayer who was a beneficiary under the trust in satisfaction of all or any part of the taxpayer's capital interest in the trust,

(6) The portion of subsection 107(2) of the Act before paragraph (a), as enacted by subsection (5), is replaced by the following:

Distribution by
personal trust

(2) Subject to subsections (2.001), (2.002) and (4) to (5), where at any time a property of a personal trust or a prescribed trust is distributed by the trust to a taxpayer who was a beneficiary under the trust and there is a resulting disposition of all or any part of the taxpayer's capital interest in the trust,

(7) Paragraphs 107(2)(b) and (c) of the Act are replaced by the following:

(b) subject to subsection (2.2), the taxpayer is deemed to have acquired the property at a cost equal to the total of its cost amount to the trust immediately before that time and the specified percentage of the amount, if any, by which

(i) the adjusted cost base to the taxpayer of the capital interest or part of it, as the case may be, immediately before that time (determined without reference to paragraph (1)(a))

exceeds

(ii) the cost amount to the taxpayer of the capital interest or part of it, as the case may be, immediately before that time;

(b.1) for the purpose of paragraph (b), the specified percentage is,

(i) where the property is capital property (other than depreciable property), 100%,

(ii) where the property is eligible capital property in respect of a business of the trust, 100%, and

(iii) in any other case, 75%;

(c) the taxpayer is deemed to have disposed of all or part, as the case may be, of the capital interest for proceeds equal to the amount, if any, by which

(i) the cost at which the taxpayer would be deemed by paragraph (b) to have acquired the property if the specified percentage referred to in that paragraph were 100%

exceeds

(ii) the total of all amounts each of which is an eligible offset at that time of the taxpayer in respect of the capital interest or the part of it;

(8) Subsection 107(2) of the Act is amended by striking out the word "and" at the end of paragraph (d) and by adding the following after paragraph (d):

(d.1) the property is deemed to be taxable Canadian property of the taxpayer where

(i) the taxpayer is non-resident at that time,

(ii) that time is before October 2, 1996, and

(iii) the property was deemed by paragraph 51(1)(f), 85(1)(i) or 85.1(1)(a), subsection 87(4) or (5) or paragraph 97(2)(c) to be taxable Canadian property of the trust; and

(9) The portion of subparagraph 107(2)(f)(ii) of the Act before the formula is replaced by the following:

(ii) for the purpose of determining after that time the amount required by paragraph 14(1)(b) to be included in computing the taxpayer's income in respect of any subsequent disposition of property of the business, there shall be added to the value otherwise determined for Q in the definition "cumulative eligible capital" in subsection 14(5) the amount determined by the formula

(10) Section 107 of the Act is amended by adding the following after subsection (2):

No rollover on
election by a
trust

(2.001) Where a trust makes a distribution of a property to a beneficiary of the trust in full or partial satisfaction of the beneficiary's capital interest in the trust and so elects in prescribed form filed with the Minister with the trust's return of income for its taxation year in which the distribution occurred, subsection (2) does not apply to the distribution if

(a) the trust is resident in Canada at the time of the distribution;

(b) the property is taxable Canadian property; or

(c) the property is capital property used in, eligible capital property in respect of, or property described in the inventory of, a business carried on by the trust through a permanent establishment (as defined by regulation) in Canada immediately before the time of the distribution.

No rollover on
election by a
beneficiary

(2.002) Where a non-resident trust makes a distribution of a property (other than a property described in paragraph (2.001)(b) or (c)) to a beneficiary of the trust in full or partial satisfaction of the beneficiary's capital interest in the trust and the beneficiary makes an election under this subsection in prescribed form filed with the Minister with the beneficiary's return of income for the beneficiary's taxation year in which the distribution occurred,

(a) subsection (2) does not apply to the distribution; and

(b) for the purpose of subparagraph (1)(a)(ii), the cost amount of the interest to the beneficiary is deemed to be nil.

(11) The portion of subsection 107(2.01) of the Act before paragraph (a) is replaced by the following:

Distribution of
principal
residence

(2.01) Where property that would, if a personal trust had designated the property under paragraph (c.1) of the definition "principal residence" in section 54, be a principal residence (within the meaning of that definition) of the trust for a taxation year, is at any time (in this subsection referred to as "that time") distributed by the trust to a taxpayer in circumstances in which subsection (2) applies and the trust so elects in its return of income for the taxation year that includes that time,

(12) Subsection 107(2.1) of the Act is replaced by the following:

Other
distributions

(2.1) Where at any time a property of a trust is distributed by the trust to a beneficiary under the trust, there would, if this Act were read without reference to paragraphs (h) and (i) of the definition "disposition" in subsection 248(1), be a resulting disposition of all or any part of the beneficiary's capital interest in the trust (which interest or part, as the case may be, is in this subsection referred to as the "former interest") and the rules in subsection (2) and section 132.2 do not apply in respect of the distribution,

(a) the trust is deemed to have disposed of the property for proceeds equal to its fair market value at that time;

(b) the beneficiary is deemed to have acquired the property at a cost equal to the proceeds determined under paragraph (a);

(c) subject to paragraph (e), the beneficiary's proceeds of disposition of the portion of the former interest disposed of by the beneficiary on the distribution are deemed to be equal to the amount, if any, by which

(i) the proceeds determined under paragraph (a) (other than the portion, if any, of the proceeds that is a payment to which paragraph (h) or (i) of the definition "disposition" in subsection 248(1) applies)

exceed the total of

(ii) where the property is not a Canadian resource property or foreign resource property, the amount, if any, by which

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

exceeds the total of

(B) the cost amount to the trust of the property immediately before that time, and

(C) the portion, if any, of the excess that would be determined under this subparagraph if this subparagraph were read without reference to this clause that represents a payment to which paragraph (h) or (i) of the definition "disposition" in subsection 248(1) applies, and

(iii) all amounts each of which is an eligible offset at that time of the taxpayer in respect of the former interest;

(d) notwithstanding paragraphs (a) to (c), where the trust is non-resident at that time, the property is not described in paragraph (2.001)(b) or (c) and, if this Act were read without reference to this paragraph, there would be no income, loss, taxable capital gain or allowable capital loss of a taxpayer in respect of the property because of the application of subsection 75(2) to the disposition at that time of the property,

(i) the trust is deemed to have disposed of the property for proceeds equal to the cost amount of the property,

(ii) the beneficiary is deemed to have acquired the property at a cost equal to the fair market value of the property, and

(iii) the beneficiary's proceeds of disposition of the portion of the former interest disposed of by the beneficiary on the distribution are deemed to be equal to the amount, if any, by which

(A) the fair market value of the property

exceeds the total of

(B) the portion, if any, of the amount of the distribution that is a payment to which paragraph (h) or (i) of the definition "disposition" in subsection 248(1) applies, and

(C) all amounts each of which is an eligible offset at that time of the taxpayer in respect of the former interest; and

(e) where the trust is a mutual fund trust, the distribution occurs in a taxation year of the trust before its 2003 taxation year, the trust has elected under subsection 107(2.11) in respect of the year and the trust so elects in respect of the distribution in prescribed form filed with the trust's return of income for the year,

(i) this subsection shall be read without reference to paragraph (c), and

(ii) the beneficiary's proceeds of disposition of the portion of the former interest disposed of by the beneficiary on the distribution are deemed to be equal to the amount determined under paragraph (a).

Gains not
distributed to
beneficiaries

(2.11) Where a trust makes one or more distributions of property in a taxation year in circumstances in which subsection (2.1) applies (or, in the case of property distributed after October 1, 1996 and before 2000, in circumstances in which subsection (5) applied)

(a) where the trust is resident in Canada at the time of each of those distributions and has so elected in prescribed form filed with the trust's return for the year or a preceding taxation year, the income of the trust for the year (determined without reference to subsection 104(6)) shall, for the purposes of subsections 104(6) and (13), be computed without regard to all of those distributions to non-resident persons (including a partnership other than a Canadian partnership); and

(b) where the trust is resident in Canada at the time of each of those distributions and has so elected in prescribed form filed with the trust's return for the year or a preceding taxation year, the income of the trust for the year (determined without reference to subsection 104(6)) shall, for the purposes of subsections 104(6) and (13), be computed without regard to all of those distributions.

(13) Subparagraph 107(2.2)(a)(ii) of the Act is amended by replacing the reference to the expression "4/3 of" with a reference to the word "twice".

(14) Subsection 107(3) of the Act is repealed.

(15) Subsection 107(4) of the Act is replaced by the following:

Trusts in
favour of
spouse, common-
law partner or
self

(4) Subsection (2.1) applies (and subsection (2) does not apply) at any time to property distributed to a beneficiary by a trust described in paragraph 104(4)(a) where

(a) the beneficiary is not

(i) in the case of a post-1971 spousal or common-law partner trust, the spouse or common-law partner referred to in paragraph 104(4)(a),

(ii) in the case of an *alter ego* trust, the taxpayer referred to in paragraph 104(4)(a), and

(iii) in the case of a joint spousal or common-law partner trust, the taxpayer, spouse or common-law partner referred to in paragraph 104(4)(a); and

(b) a taxpayer, spouse or common-law partner referred to in subparagraph (a)(i), (ii) or (iii), as the case may be, is alive on the day of the distribution.

(16) The portion of subsection 107(4.1) of the Act after paragraph (c) is replaced by the following:

<?[ip0n,0n]>subsection (2.1) applies (and subsection (2) does not apply) in respect of the distribution.

(17) Subsection 107(4.1) of the Act, as enacted by subsection (16), is replaced by the following:

Where
subsection
75(2)
applicable to
trust

(4.1) Subsection (2.1) applies (and subsection (2) does not apply) in respect of a distribution of any property of a particular personal trust or prescribed trust by the particular trust to a taxpayer who was a beneficiary under the particular trust where

(a) the distribution was in satisfaction of all or any part of the taxpayer's capital interest in the particular trust;

(b) subsection 75(2) was applicable at a particular time in respect of any property of

(i) the particular trust, or

(ii) a trust the property of which included a property that, through one or more dispositions to which subsection 107.4(3) applied, became a property of the particular trust, and the property was not, at any time after the particular time and before the distribution, the subject of a disposition for proceeds of disposition equal to the fair market value of the property at the time of the disposition;

(c) the taxpayer was neither

(i) the person (other than a trust described in subparagraph (b)(ii)) from whom the particular trust directly or indirectly received the property, or property for which the property was substituted, nor

(ii) an individual in respect of whom subsection 73(1) would be applicable on the transfer of capital property from the person described in subparagraph (i); and

(d) the person described in subparagraph (c)(i) was in existence at the time the property was distributed.

(18) Subsection 107(5) of the Act is replaced by the following:

Distribution to
non-resident

(5) Subsection (2.1) applies (and subsection (2) does not apply) in respect of a distribution of a property (other than a share of the capital stock of a non-resident-owned investment corporation or property described in any of subparagraphs 128.1(4)(b)(i) to (iii)) by a trust resident in Canada to a non-resident taxpayer (including a partnership other than a Canadian partnership) in satisfaction of all or part of the taxpayer's capital interest in the trust.

Instalment
interest

(5.1) Where, solely because of the application of subsection (5), paragraphs (2)(a) to (c) do not apply to a distribution in a taxation year of taxable Canadian property by a trust, in applying sections 155, 156 and 156.1 and subsections 161(2), (4) and (4.01) and any regulations made for the purpose of those provisions, the trust's total taxes payable under this Part and Part I.1 for the year are deemed to be the lesser of

(a) the trust's total taxes payable under this Part and Part I.1 for the year, determined before taking into consideration the specified future tax consequences for the year, and

(b) the amount that would be determined under paragraph (a) if subsection (5) did not apply to each distribution in the year of taxable Canadian property to which the rules in subsection (2) do not apply solely because of the application of subsection (5).

(19) Subsections (1) to (4) apply to the 2000 and subsequent taxation years except that, in respect of transfers in 2000 or 2001, for the purposes of subsection 107(1) of the Act, as enacted by this section, the residence of a transferee trust shall be determined without reference to section 94 of the Act, as it read before 2002.

(20) Subsection (5) applies to distributions made after October 1, 1996.

(21) Subsections (6) and (7), subsection 107(2.002) of the Act, as enacted by subsection (10), and subsections (11) and (14) to (16) apply to distributions made after 1999 except that, for distributions made to a beneficiary before the particular day on which this Act receives royal assent, an election under subsection 107(2.002) of the Act, as enacted by subsection (10), is deemed to have been made in a timely manner if it is made on or before the beneficiary's filing-due date for the taxation year that includes the particular day.

(22) Subsection (8) applies in determining after October 1, 1996 whether property is taxable Canadian property.

(23) Subsections (9) and (13) apply to taxation years that end after February 27, 2000 except that, for a beneficiary's taxation year that includes either February 28, 2000 or October 17, 2000 or began after February 28, 2000 and ended before October 17, 2000, the reference to the word "twice" in subparagraph 107(2.2)(a)(ii) of the Act, as enacted by subsection (13), shall be read as a reference to the expression "the fraction that is the reciprocal of the fraction in paragraph 38(a), as enacted by subsection 22(1) of the *Income Tax Amendments Act, 2000*, that applies to the beneficiary for the year, multiplied by".

(24) Subsection 107(2.001) of the Act, as enacted by subsection (10), applies to distributions made after October 1, 1996 except that, for distributions made from a trust before the particular day on which this Act receives royal assent, an election under that subsection 107(2.001) is deemed to have been made in a timely manner if it is made on or before the trust's filing-due date for the taxation year that includes the particular day.

(25) Subsection 107(2.1) of the Act, as enacted by subsection (12), applies to distributions made after 1999 (other than distributions made before March 2000 in satisfaction of rights described in subsection 52(6) of the Act that were acquired before 2000).

(26) Subsection 107(2.11) of the Act, as enacted by subsection (12), applies to distributions made after October 1, 1996 except that, for distributions made from a trust before the particular day on which this Act receives royal assent, an election under that subsection 107(2.11) is deemed to have been made in a timely manner if it is made on or before the trust's filing-due date for the taxation year that includes the particular day.

(27) Subsection (17) applies to distributions made on or after ANNOUNCEMENT DATE.

(28) Subsection (18) applies to distributions made after October 1, 1996 except that, for distributions made after October 1, 1996 and before 2000, subsection 107(5) of the Act, as enacted by subsection (18), shall be read as follows:

(5) Where subsection (2) applies to a distribution at any time by a trust resident in Canada of a property (other than a share of the capital stock of a non-resident-owned investment corporation or property described in any of subparagraphs 128.1(4)(b)(i) to (iii)) to a non-resident taxpayer (including a partnership other than a Canadian partnership) who is a beneficiary under the trust in satisfaction of the taxpayer's capital interest in the trust, notwithstanding paragraphs (2)(a) to (c),

(a) the trust is deemed to have disposed of the property for proceeds equal to its fair market value at that time;

(b) the taxpayer is deemed to have acquired the property at a cost equal to that fair market value; and

(c) the taxpayer is deemed to have disposed of all or part, as the case may be, of the taxpayer's capital interest in the trust, for proceeds of disposition equal to the adjusted cost base to the taxpayer of that interest or part of the interest, as the case may be, immediately before that time.

81. (1) The portion of section 107.1 of the Act before subparagraph (a)(i) is replaced by the following:

Distribution by
employee trust,
employee

benefit plan or
similar trust

107.1 Where at any time any property of an employee trust, a trust governed by an employee benefit plan or a trust described in paragraph (a.1) of the definition "trust" in subsection 108(1) has been distributed by the trust to a taxpayer who was a beneficiary under the trust in satisfaction of all or any part of the taxpayer's interest in the trust, the following rules apply:

(a) in the case of an employee trust or a trust described in paragraph (a.1) of the definition "trust" in subsection 108(1),

(2) Subsection (1) applies to the 1999 and subsequent taxation years.

82. (1) The Act is amended by adding the following after section 107.3:

Qualifying
disposition

107.4 (1) For the purpose of this section, a "qualifying disposition" of a property means a disposition of the property by a person or partnership (in this subsection referred to as the "contributor") as a result of a transfer of the property to a particular trust where

(a) the disposition does not result in a change in the beneficial ownership of the property;

(b) the proceeds of disposition would, if this Act were read without reference to this section and sections 69 and 73, not be determined under any provision of this Act;

(c) if the particular trust is non-resident, the disposition is not

(i) by a person resident in Canada or by a partnership (other than a partnership each member of which is non-resident), or

(ii) a transfer of taxable Canadian property from a non-resident person who was resident in Canada in any of the ten calendar years preceding the transfer;

(d) the contributor is not a partnership, if the disposition is part of a series of transactions or events that begin after December 17, 1999 that includes the cessation of the partnership's existence and a subsequent distribution from a

personal trust to a former member of the partnership in circumstances to which subsection 107(2) applies;

(e) unless the contributor is a trust, there is immediately after the disposition no absolute or contingent right of a person or partnership (other than the contributor or, where the property was co-owned, each of the joint contributors) as a beneficiary (determined with reference to subsection 104(1.1)) under the particular trust;

(f) the contributor is not an individual (other than a trust described in any of paragraphs (a) to (e.1) of the definition "trust" in subsection 108(1)), if the particular trust is described in any of paragraphs (a) to (e.1) of the definition "trust" in subsection 108(1);

(g) the disposition is not part of a series of transactions or events

(i) that begins after December 17, 1999 and that includes the subsequent acquisition, for consideration given to a personal trust, of a capital interest or an income interest in the trust,

(ii) that begins after December 17, 1999 and that includes the disposition of all or part of a capital interest or an income interest in a personal trust, other than a disposition solely as a consequence of a distribution from a trust to a person or partnership in satisfaction of all or part of that interest, or

(iii) that begins after June 5, 2000 and that includes the transfer to the particular trust of particular property as consideration for the acquisition of a capital interest in the particular trust, if the particular property can reasonably be considered to have been received by the particular trust in order to fund a distribution (other than a distribution that is proceeds of disposition of a capital interest in the particular trust);

(h) the disposition is not, and is not part of, a transaction

(i) that occurs after December 17, 1999, and

(ii) that includes the giving to the contributor, for the disposition, of any consideration (other than consideration that is an interest of the contributor as a beneficiary under the particular trust or that is the assumption by the particular trust of debt for which the property can, at the time of the disposition, reasonably be considered to be security);

(i) subsection 73(1) does not apply to the disposition and would not apply to the disposition if

(i) no election had been made under that subsection, and

(ii) section 73 were read without reference to subsection 73(1.02); and

(j) if the contributor is an amateur athlete trust, a cemetery care trust, an employee trust, an *inter vivos* trust deemed by subsection 143(1) to exist in respect of a congregation that is a constituent part of a religious organization, a related segregated fund trust (as defined by section 138.1), a trust described in paragraph 149(1)(o.4) or a trust governed by an eligible funeral arrangement, an employees profit sharing plan, a registered education savings plan or a registered supplementary unemployment benefit plan, the particular trust is the same type of trust.

Application of
paragraph
(1)(a)

(2) For the purpose of paragraph (1)(a),

(a) except where paragraph (b) applies, where a trust (in this paragraph and subsection (2.1) referred to as the "transferor trust"), in a period that does not exceed one day, disposes of one or more properties in the period to one or more other trusts, there is deemed to be no resulting change in the beneficial ownership of those properties if

(i) the transferor trust receives no consideration for the disposition, and

(ii) as a consequence of the disposition, the value of each beneficiary's beneficial ownership at the beginning of the period under the transferor trust in each particular property of the transferor trust (or group of two or more properties of the transferor trust that are identical to each other) is the same as the value of the beneficiary's beneficial ownership at the end of the period under the transferor trust and the other trust or trusts in each particular property (or in property that was immediately before the disposition included in the group of identical properties referred to above); and

(b) where a trust (in this paragraph referred to as the "transferor") governed by a registered retirement savings plan or by a registered retirement income fund transfers a property to a trust (in this paragraph referred to as the "transferee")

governed by a registered retirement savings plan or by a registered retirement income fund, the transfer is deemed not to result in a change in the beneficial ownership of the property if the annuitant of the plan or fund that governs the transferor is also the annuitant of the plan or fund that governs the transferee.

Fractional interests

(2.1) For the purpose of applying paragraph (2)(a) in respect of a transfer by a transferor trust of property that includes a share and money, the other trust or trusts referred to in that paragraph may receive, in lieu of a transfer of a fractional interest in a share that would otherwise be required, a disproportionate amount of money or interest in the share (the value of which does not exceed the lesser of \$200 and the fair market value of the fractional interest).

Tax consequences of qualifying dispositions

(3) Where at a particular time there is a qualifying disposition of a property by a person or partnership (in this subsection referred to as the "transferor") to a trust (in this subsection referred to as the "transferee trust"),

(a) the transferor's proceeds of disposition of the property are deemed to be

(i) where the transferor so elects in writing and files the election with the Minister on or before the transferor's filing-due date for its taxation year that includes the particular time, or at any later time that is acceptable to the Minister, the amount specified in the election that is not less than the cost amount to the transferor of the property immediately before the particular time and not more than the fair market value of the property at the particular time, and

(ii) in any other case, the cost amount to the transferor of the property immediately before the particular time;

(b) except as otherwise provided under paragraph (c), the transferee trust's cost of the property is deemed to be the amount, if any, by which

(i) the proceeds determined under paragraph (a) in respect of the qualifying disposition

exceed

(ii) the amount by which the transferor's loss otherwise determined from the qualifying disposition would be reduced because of subsection 100(4), paragraph 107(1)(c) or (d) or any of subsections 112(3) to (4.2), if the proceeds determined under paragraph (a) were equal to the fair market value of the property at the particular time;

(c) notwithstanding subsection 206(4), for the purposes of Part XI and regulations made for the purposes of that Part, the transferee trust's cost of the property is deemed to be

(i) the cost amount to the transferor immediately before the particular time where

(A) the particular time is before 2000,

(B) the transferor is a trust governed by a registered retirement savings plan or a registered retirement income fund,

(C) the transferee trust is governed by a registered retirement savings plan or a registered retirement income fund,

(D) the transferee trust files a written election with the Minister on or before the later of March 31, 2001 and its filing-due date for its taxation year that includes the particular time (or at such later date that is acceptable to the Minister) that this subparagraph apply, and

(E) it can reasonably be considered that the election was not made for the purpose of avoiding tax under Part XI,

(ii) the fair market value of the property at the particular time where

(A) subparagraph (iii) does not apply,

(B) the transferee trust files a written election with the Minister on or before the later of March 31, 2001 and its filing-due date for its taxation year that includes the particular time (or at such later date that is acceptable to the Minister) that this subparagraph apply, and

(C) it can reasonably be considered that the election was not made for the purpose of avoiding tax under Part XI,

(iii) the fair market value of the property at the particular time where

(A) subparagraph (i) does not apply to the qualifying disposition,

(B) the particular time is before 2000,

(C) the transferor is a trust governed by a registered retirement savings plan or a registered retirement income fund, and

(D) the transferee trust is governed by a registered retirement savings plan or a registered retirement income fund, and

(iv) the cost amount to the transferor of the property immediately before the particular time, in any other case;

(d) if the property was depreciable property of a prescribed class of the transferor and its capital cost to the transferor exceeds the cost at which the transferee trust is deemed by this subsection to have acquired the property, for the purposes of sections 13 and 20 and any regulations made for the purpose of paragraph 20(1)(a),

(i) the capital cost of the property to the transferee trust is deemed to be the amount that was the capital cost of the property to the transferor, and

(ii) the excess is deemed to have been allowed to the transferee trust in respect of the property under regulations made for the purpose of paragraph 20(1)(a) in computing income for taxation years that ended before the particular time;

(e) if the property was eligible capital property of the transferor in respect of a business of the transferor,

(i) where the eligible capital expenditure of the transferor in respect of the property exceeds the cost at which the transferee trust is deemed by this subsection to have acquired the property, for the purposes of sections 14, 20 and 24,

(A) the eligible capital expenditure of the transferee trust in respect of the property is deemed to be the amount that was the eligible capital expenditure of the transferor in respect of the property, and

(B) 3/4 of the excess is deemed to have been allowed under paragraph 20(1)(b) to the transferee trust in respect of the property in computing income for taxation years that ended

(I) before the particular time, and

(II) after the adjustment time of the transferee trust in respect of the business, and

(ii) for the purpose of determining after the particular time the amount required by paragraph 14(1)(b) to be included in computing the transferee trust's income in respect of any subsequent disposition of the property of the business, there shall be added to the value otherwise determined for Q in the definition "cumulative eligible capital" in subsection 14(5) the amount determined by the formula

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

where

A is the amount, if any, determined for Q in that definition in respect of the business of the transferor immediately before the particular time,

B is the fair market value of the property immediately before the particular time, and

C is the fair market value immediately before the particular time of all eligible capital property of the transferor in respect of the business;

(f) if the property was deemed to be taxable Canadian property of the transferor by this paragraph or paragraph 51(1)(f), 85(1)(i) or 85.1(1)(a), subsection 87(4) or (5) or paragraph 97(2)(c) or 107(2)(d.1), the property is deemed to be taxable Canadian property of the transferee trust;

(g) where the transferor is a related segregated fund trust (in this paragraph having the meaning assigned by section 138.1),

(i) paragraph 138.1(1)(i) does not apply in respect of a disposition of an interest in the transferor that occurs in connection with the qualifying disposition, and

(ii) in computing the amount determined under paragraph 138.1(1)(i) in respect of a subsequent disposition of an interest in the transferee trust where the interest is deemed to exist in connection with a particular life insurance policy, the acquisition fee (as defined by subsection 138.1(6)) in