

Notice of Ways and Means Motion to amend the Income Tax Act,  
the Income Tax Application Rules and another Act related to  
the Income Tax Act

THE MINISTER OF FINANCE

**Notice of Ways and Means Motion to amend the Income Tax Act, the Income Tax Application Rules and another Act related to the Income Tax Act**

That it is expedient to amend the Income Tax Act, the Income Tax Application Rules and another Act related to the Income Tax Act as follows:

SUMMARY

These amendments implement certain measures announced in the Budget of March 6, 1996 as well as *Income Tax Act* amendments released on March 5, 1996 concerning foreign reporting. These measures are summarized below:

(1) **Tax Credits for Individuals:** enriches the education tax credit, tuition fee tax credit and credit for infirm dependants.

(2) **Charitable Donations:** increases the annual income limitation from 20% to 50% and provides further relief for gifts of capital property and gifts made in the year of the donor's death.

(3) **Child Care Expense Deduction:** raises the maximum age of children in respect of whom the deduction may be claimed from 14 years to 16 years of age.

(4) **Child Support Payments:** eliminates the deduction and inclusion in income of child support payments paid pursuant to agreements and court orders made after April 1997.

(5) **Deferred Income Plans:** requires that RRSPs mature at 69, rather than 71 years of age; allows an indefinite carryforward of unused RRSP deductions; increases limits on contributions to RESPs; and denies the deduction of fees paid by an annuitant of an RRSP or RRIF.

(6) **Foreign Reporting Rules:** requires taxpayers to file information returns if they own more than \$100,000 of foreign investment property, transfer property to or receive a distribution from a non-resident trust or have an interest in a foreign affiliate.

(7) **Non-resident Pensioners:** ensures that if a non-resident receiving Canadian pension benefits elects to be taxed at progressive rates, all of the non-resident's income is taken into account.

(8) **Scientific Research and Experimental Development:** introduces a salary cap for SR&ED treatment of salaries of specified employees.

(9) **Labour-Sponsored Venture Capital Corporations:** reduces the tax credit rate from 20% of the cost of LSVCC shares to 15% (up to an annual maximum credit of \$525).

(10) **Flow-Through Shares:** extends the look-back rule to allow qualifying expenses incurred at any time in a taxation year (rather than only the first 60 days of the year) to be treated as if incurred in the preceding year; allows expenditures in respect of renewable energy and energy conservation projects to be qualifying expenses.

(11) **Resource Losses:** requires an add-back to income of 25% of prescribed resource losses in recognition of the deduction of 25% of resource profits.

(12) **Canadian Field Processing:** excludes gas plant processing from activities eligible for manufacturing and processing tax credit, with the intent that such activities will now result in additional claims for the resource allowance under regulations made for the purpose of paragraph 20(1)(v.1) of the Act.

(13) **Joint Exploration Corporations:** repeals rules allowing for the renunciation of resource expenses by joint exploration corporations.

(14) **Part VI Capital Tax:** extends the application of the additional Part VI tax by one year for banks and other deposit-taking institutions and by three years for life insurance corporations.

EXPLANATORY NOTES

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

SHORT TITLE

Short title

1. This Act may be cited as the *Income Tax Budget Amendments Act, 1996*.

PART I

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

INCOME TAX ACT

2. (1) Subsection 12(1) of the *Income Tax Act* is amended by adding the following after paragraph (e):

Negative  
reserves

(e.1) where the taxpayer is an insurer, the amount prescribed in respect of the insurer for the year;

(2) The portion of paragraph 12(1)(o) of the Act after subparagraph (iii) is replaced by the following:

as a royalty, tax (other than a tax or portion of a tax that can reasonably be considered to be a municipal or school tax), lease rental or bonus or as an amount, however described, that can reasonably be regarded as being in lieu of any such amount, or in respect of the late receipt or non-receipt of any such amount, and that can reasonably be regarded as being in relation to

(iv) the acquisition, development or ownership of a Canadian resource property of the taxpayer in respect of which the obligation imposed by statute or the contractual obligation, as the case may be, applied, or

(v) the production in Canada

(A) of petroleum, natural gas or related hydrocarbons from a natural accumulation of petroleum or natural gas (other than

a mineral resource) located in Canada or from an oil or gas well located in Canada,

(B) of sulphur from a natural accumulation of petroleum or natural gas located in Canada, from an oil or gas well located in Canada or from a mineral resource located in Canada,

(C) to any stage that is not beyond the prime metal stage or its equivalent, of metal, minerals (other than iron or petroleum or related hydrocarbons) or coal from a mineral resource located in Canada,

(D) to any stage that is not beyond the pellet stage or its equivalent, of iron from a mineral resource located in Canada, or

(E) to any stage that is not beyond the crude oil stage or its equivalent, of petroleum or related hydrocarbons from tar sands from a mineral resource located in Canada,

in respect of which the taxpayer had an interest to which the obligation imposed by statute or the contractual obligation, as the case may be, applied;

**(3) Subsection 12(1) of the Act is amended by striking out the word "and" at the end of paragraph (z.3), by adding the word "and" at the end of paragraph (z.4) and by adding the following after paragraph (z.4):**

Resource loss

(z.5) 25% of the taxpayer's prescribed resource loss for the year.

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

**(5) Subsections (2) and (3) apply to taxation years that begin after 1996.**

**3. (1) Subsection 13(5) of the Act is replaced by the following:**

Reclassifica-  
tion of  
property

(5) Where one or more depreciable properties of a taxpayer that were included in a prescribed class (in this subsection referred to as the "old class") become included at any time (in this subsection referred to as the "transfer time") in another prescribed class (in this subsection referred to as the "new class"), for the purpose of

determining at any subsequent time the undepreciated capital cost to the taxpayer of depreciable property of the old class and the new class

(a) the value of A in the definition "undepreciated capital cost" in subsection (21) shall be determined as if each of those depreciable properties were

(i) properties of the new class acquired before the subsequent time, and

(ii) never included in the old class; and

(b) there shall be deducted in computing the total depreciation allowed to the taxpayer for property of the old class before the subsequent time, and added in computing the total depreciation allowed to the taxpayer for property of the new class before the subsequent time, the greater of

(i) the amount determined by the formula

$$A - B$$

where

A is the total of all amounts each of which is the capital cost to the taxpayer of each of those depreciable properties, and

B is the undepreciated capital cost to the taxpayer of depreciable property of the old class at the transfer time, and

(ii) the total of all amounts each of which is an amount that would have been deducted under paragraph 20(1)(a) in respect of a depreciable property that is one of those properties in computing the taxpayer's income for a taxation year that ended before the transfer time and at the end of which the property was included in the old class if

(A) the property had been the only property included in a separate prescribed class, and

(B) the rate allowed by the regulations made for the purpose of paragraph 20(1)(a) in respect of that separate class had been the effective rate that was used by the taxpayer to calculate a deduction under that paragraph in respect of the old class for the year.

**(2) Section 13 of the Act is amended by adding the following after subsection (7.4):**

Deemed capital  
cost

(7.5) For the purposes of this Act,

(a) where a taxpayer, to acquire a property prescribed in respect of the taxpayer, is required under the terms of a contract made after March 6, 1996 to make a payment to Her Majesty in right of Canada or a province or to a Canadian municipality in respect of costs incurred or to be incurred by the recipient of the payment

(i) the taxpayer is deemed to have acquired the property at a capital cost equal to the portion of that payment made by the taxpayer that can reasonably be regarded as being in respect of those costs, and

(ii) the time of acquisition of the property by the taxpayer is deemed to be the later of the time the payment is made and the time at which those costs are incurred;

(b) where

(i) at any time after March 6, 1996 a taxpayer incurs a cost on account of capital for the building of, for the right to use or in respect of, a prescribed property, and

(ii) the amount of the cost would, if this paragraph did not apply, not be included in the capital cost to the taxpayer of depreciable property of a prescribed class,

the taxpayer is deemed to have acquired the property at that time at a capital cost equal to the amount of the cost;

(c) where a taxpayer acquires an intangible property as a consequence of making a payment to which paragraph (a) applies or incurring a cost to which paragraph (b) applies,

(i) the property referred to in paragraph (a) or (b) is deemed to include the intangible property, and

(ii) the portion of the capital cost referred to in paragraph (a) or (b) that applies to the intangible property is deemed to be the amount determined by the formula

$$A \times B/C$$

where

A is the lesser of the amount of the payment made or cost incurred and the amount determined for C,



B is the fair market value of the intangible property at the time the payment was made or the cost was incurred, and

C is the fair market value at the time the payment was made or the cost was incurred of all intangible properties acquired as a consequence of making the payment or incurring the cost; and

(d) any property deemed by paragraph (a) or (b) to have been acquired at any time by a taxpayer as a consequence of making a payment or incurring a cost

(i) is deemed to have been acquired for the purpose for which the payment was made or the cost was incurred, and

(ii) is deemed to be owned by the taxpayer at any subsequent time that the taxpayer benefits from the property.

**(3) Subsection (1) applies to properties of a prescribed class that, after 1996, become included in property of another prescribed class.**

**(4) Subsection (2) applies to taxation years that end after March 6, 1996.**

**4. (1) The portion of paragraph 18(1)(m) of the Act after subparagraph (iii) is replaced by the following:**

as a royalty, tax (other than a tax or portion of a tax that can reasonably be considered to be a municipal or school tax), lease rental or bonus or as an amount, however described, that can reasonably be regarded as being in lieu of any such amount, or in respect of the late payment or non-payment of any such amount, and that can reasonably be regarded as being in relation to

(iv) the acquisition, development or ownership of a Canadian resource property, or

(v) the production in Canada

(A) of petroleum, natural gas or related hydrocarbons from a natural accumulation of petroleum or natural gas (other than a mineral resource) located in Canada or from an oil or gas well located in Canada,

(B) of sulphur from a natural accumulation of petroleum or natural gas located in Canada, from an oil or gas well located in Canada or from a mineral resource located in Canada,

(C) to any stage that is not beyond the prime metal stage or its equivalent, of metal, minerals (other than iron or petroleum or related hydrocarbons) or coal from a mineral resource located in Canada,

(D) to any stage that is not beyond the pellet stage or its equivalent, of iron from a mineral resource located in Canada, or

(E) to any stage that is not beyond the crude oil stage or its equivalent, of petroleum or related hydrocarbons from tar sands from a mineral resource located in Canada,

**(2) Subsection 18(1) of the Act is amended by striking out the word "and" at the end of paragraph (s) and by replacing paragraph (t) with the following:**

Payments under  
Act

(t) any amount paid or payable under this Act (other than tax paid or payable under Part XII.2 or Part XII.6); and

RSP/RIF fees

(u) any amount paid or payable by the taxpayer for services in respect of a retirement savings plan or retirement income fund under which the taxpayer is the annuitant.

**(3) 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 a non-resident insurance corporation to the extent that the amount 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;

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

**(5) Paragraph 18(1)(t) of the Act, as enacted by subsection (2), applies to the 1997 and subsequent taxation years.**

**(6) Paragraph 18(1)(u) of the Act, as enacted by subsection (2), applies to amounts paid or payable after March 5, 1996.**

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

5. (1) Paragraph 20(1)(mm) of the Act is replaced by the following:

Cost of  
substances  
injected in  
reservoir

(mm) the portion claimed by the taxpayer of an amount that is an outlay or expense made or incurred by the taxpayer before the end of the year that is a cost to the taxpayer of any substance injected before that time into a natural reservoir to assist in the recovery of petroleum, natural gas or related hydrocarbons to the extent that that portion was not

(i) otherwise deducted in computing the taxpayer's income for the year, or

(ii) deducted in computing the taxpayer's income for any preceding taxation year,

except that where the year is less than 51 weeks, the amount that may be claimed under this paragraph by the taxpayer for the year shall not exceed the greater of

(iii) that proportion of the maximum amount that may otherwise be claimed under this paragraph by the taxpayer for the year that the number of days in the year is of 365, and

(iv) the amount of such outlay or expense that was made or incurred by the taxpayer in the year and not otherwise deducted in computing the taxpayer's income for the year;

Part XII.6 tax

(nn) the tax, if any, under Part XII.6 paid in the year or payable in respect of the year by the taxpayer (depending on the method regularly followed by the taxpayer in computing the taxpayer's income);

(2) Paragraph 20(7)(c) of the Act is replaced by the following:

(c) as a reserve in respect of insurance, except that in computing an insurer's income for a taxation year from an insurance business, other than a life insurance business, carried on by it, there may be deducted as a policy reserve any amount that the insurer claims not exceeding the amount prescribed in respect of the insurer for the year.

**(3) Section 20 of the Act is amended by adding the following after subsection (21):**

Deduction for  
negative  
reserves

(22) In computing an insurer's income for a taxation year, there may be deducted the amount included under paragraph 12(1)(e.1) in computing the insurer's income for the preceding taxation year.

**(4) Paragraph 20(1)(mm) of the Act, as enacted by subsection (1), and subsections (2) and (3) apply to the 1996 and subsequent taxation years.**

**(5) Paragraph 20(1)(nn) of the Act, as enacted by subsection (1), applies to the 1997 and subsequent taxation years.**

**6. (1) Section 37 of the Act is amended by adding the following after subsection (9):**

Limitation re  
specified  
employees

(9.1) For the purposes of clauses (8)(a)(ii)(A) and (B), expenditures incurred by a taxpayer in a taxation year do not include expenses incurred in the year in respect of salary or wages of a specified employee of the taxpayer to the extent that those expenses exceed the amount determined by the formula

$$A \times B / 365$$

where

A is 5 times the Year's Maximum Pensionable Earnings (as determined under section 18 of the *Canada Pension Plan*) for the calendar year in which the taxation year ends; and

B is the number of days in the taxation year on which the employee is a specified employee of the taxpayer.

Associated  
corporations

(9.2) Where

(a) in a taxation year of a corporation that ends in a calendar year, the corporation employs an individual who is a specified employee of the corporation,

(b) the corporation is associated with another corporation (in this subsection and subsection (9.3) referred to as the "associated corporation") in a taxation year of the associated corporation that ends in the calendar year, and

(c) the individual is a specified employee of the associated corporation in the taxation year of the associated corporation that ends in the calendar year,

for the purposes of clauses (8)(a)(ii)(A) and (B), the expenditures incurred by the corporation in its taxation year or years that end in the calendar year and by each associated corporation in its taxation year or years that end in the calendar year do not include expenses incurred in those taxation years in respect of salary or wages of the specified employee unless the corporation and all of the associated corporations have filed with the Minister an agreement referred to in subsection (9.3) in respect of those years.

Agreement among  
associated  
corporations

(9.3) Where all of the members of a group of associated corporations of which an individual is a specified employee file, in respect of their taxation years that end in a particular calendar year, an agreement with the Minister in which they allocate an amount in respect of the individual to one or more of them for those years and the amount so allocated or the total of the amounts so allocated, as the case may be, does not exceed the amount determined by the formula

$$A \times B / 365$$

where

A is 5 times the Year's Maximum Pensionable Earnings (as determined under section 18 of the *Canada Pension Plan*) for the particular calendar year, and

B is the lesser of 365 and the number of days in those taxation years on which the individual was a specified employee of one or more of the corporations,

the maximum amount that may be claimed in respect of salary or wages of the individual for the purposes of clauses (8)(a)(ii)(A) and (B) by each of the corporations for each of those years is the amount so allocated to it for each of those years.

Filing

(9.4) An agreement referred to in subsection (9.3) is deemed not to have been filed by a taxpayer unless

(a) it is in prescribed form; and

(b) where the taxpayer is a corporation, it is accompanied by

(i) where its directors are legally entitled to administer its affairs, a certified copy of their resolution authorizing the agreement to be made, and

(ii) where its directors are not legally entitled to administer its affairs, a certified copy of the document by which the person legally entitled to administer its affairs authorized the agreement to be made.

Deemed  
corporation

(9.5) For the purposes of subsections (9.2) and (9.3) and this subsection, each

(a) individual related to a particular corporation,

(b) partnership of which a majority interest partner is

(i) an individual related to a particular corporation, or

(ii) a corporation associated with a particular corporation,  
and

(c) limited partnership of which a member whose liability as a member is not limited is

(i) an individual related to a particular corporation, or

(ii) a corporation associated with a particular corporation,

is deemed to be a corporation associated with the particular corporation.

**(2) Subsection (1) applies to taxation years that begin after March 5, 1996.**

**7. (1) Clause 53(1)(e)(i)(B) of the Act is replaced by the following:**

(B) paragraph (i), paragraphs 12(1)(o) and (z.5), 18(1)(m), 20(1)(v.1) and 29(1)(b) and (2)(b), section 55, subsections 69(6) and (7) and paragraph 82(1)(b) of this Act and paragraphs 20(1)(gg) and 81(1)(r) and (s) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, and

the provisions of the *Income Tax Application Rules* relating to income from the operation of new mines,

**(2) Clause 53(2)(c)(i)(B) of the Act is replaced by the following:**

(B) paragraphs 12(1)(o) and (z.5), 18(1)(m) and 20(1)(v.1), section 31, subsection 40(2), section 55 and subsections 69(6) and (7) of this Act and paragraphs 20(1)(gg) and 81(1)(r) and (s) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, and

**(3) Subsections (1) and (2) apply for the purpose of computing the adjusted cost base of property after 1996.**

**8. (1) Paragraphs 56(1)(b) and (c) of the Act are replaced by the following:**

Support

(b) the total of all amounts each of which is an amount determined by the formula

$$A - (B + C)$$

where

- A is the total of all amounts each of which is a support amount received after 1996 and before the end of the year by the taxpayer from a particular person where the taxpayer and the particular person were living separate and apart at the time the amount was received,
- B is the total of all amounts each of which is a child support amount that became receivable by the taxpayer from the particular person under an agreement or order on or after its commencement day and before the end of the year in respect of a period that began after its commencement day, and
- C is the total of all amounts each of which is a support amount received after 1996 by the taxpayer from the particular person and included in the taxpayer's income for a preceding taxation year;

**(2) Paragraph 56(1)(d.2) 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) made pursuant to or under a deferred profit sharing plan by a trustee under the plan to purchase the annuity for a beneficiary under the plan;

**(3) Subsection 56(12) of the Act is repealed.**

**(4) Subsections (1) and (3) apply to amounts received after 1996.**

**(5) Subsection (2) applies to the 1996 and subsequent taxation years.**

**9. (1) Subsection 56.1(1) of the Act is replaced by the following:**

Support

**56.1 (1)** For the purposes of paragraph 56(1)(b) and subsection 118(5), where an order or agreement, or any variation thereof, provides for the payment of an amount to a taxpayer or for the benefit of the taxpayer, children in the taxpayer's custody or both the taxpayer and those children, the amount or any part thereof

(a) when payable, is deemed to be payable to and receivable by the taxpayer; and

(b) when paid, is deemed to have been paid to and received by the taxpayer.

**(2) The portion of subsection 56.1(2) of the Act before the formula is replaced by the following:**

Agreement

(2) For the purposes of section 56, this section and subsection 118(5), the amount determined by the formula

**(3) The description of A in subsection 56.1(2) of the Act is replaced by the following:**

A is the total of all amounts each of which is an amount (other than an amount that is otherwise a support amount) that became payable by a person in a taxation year, under an order of a competent tribunal or under a written agreement, in respect of an expense (other than an expenditure in respect of a self-contained domestic establishment in which the person resides or an expenditure for the acquisition of tangible property that is not an expenditure on account of a medical or education expense or in respect of the acquisition, improvement or maintenance of a self-contained domestic establishment in which the taxpayer described in paragraph (a) or (b) resides) incurred in the year or the preceding taxation year for the maintenance of a



taxpayer, children in the taxpayer's custody or both the taxpayer and those children, where the taxpayer is

(a) the person's spouse or former spouse, or

(b) where the amount became payable under an order made by a competent tribunal in accordance with the laws of a province, an individual who is the parent of a child of whom the person is a natural parent,

and

**(4) The portion of subsection 56.1(2) of the Act after the description of B is replaced by the following:**

is, where the order or written agreement, as the case may be, provides that this subsection and subsection 60.1(2) shall apply to any amount paid or payable thereunder, deemed to be an amount payable to and receivable by the taxpayer as an allowance on a periodic basis, and the taxpayer is deemed to have discretion as to the use of that amount.

**(5) Subsection 56.1(3) of the Act is replaced by the following:**

Prior payments

(3) For the purposes of this section and section 56, where a written agreement or order of a competent tribunal made at any time in a taxation year provides that an amount received before that time and in the year or the preceding taxation year is to be considered to have been paid and received thereunder,

(a) the amount is deemed to have been received thereunder; and

(b) the agreement or order is deemed, except for the purpose of this subsection, to have been made on the day on which the first such amount was received.

**(6) Section 56.1 of the Act is amended by adding the following after subsection (3):**

Definitions

(4) The definitions in this subsection apply in this section and section 56.

"child support  
amount"  
« *pension  
alimentaire  
pour enfants* »

"child support amount" means any support amount that is not identified in the agreement or order under which it is receivable as being solely for the support of a recipient who is a spouse or former spouse of the payer or who is a parent of a child of whom the payer is a natural parent.

"commencement  
day"  
« *date*  
*exécution* »

"commencement day" at any time of an agreement or order means

(a) where the agreement or order is made after April 1997, the day it is made; and

(b) where the agreement or order is made before May 1997, the day, if any, that is after April 1997 and is the earliest of

(i) the day specified as the commencement day of the agreement or order by the payer and recipient under the agreement or order in a joint election filed with the Minister in prescribed form and manner,

(ii) where the agreement or order is varied after April 1997 to change the child support amounts payable to the recipient, the day on which the first payment of the varied amount is required to be made,

(iii) where a subsequent agreement or order is made after April 1997, the effect of which is to change the total child support amounts payable to the recipient by the payer, the commencement day of the first such subsequent agreement or order, and

(iv) the day specified in the agreement or order, or any variation thereof, as the commencement day of the agreement or order for the purposes of this Act.

"support  
amount"  
« *pension*  
*alimentaire* »

"support amount" means an amount payable or receivable as an allowance on a periodic basis for the maintenance of the recipient, children of the recipient or both the recipient and children of the recipient, if the recipient has discretion as to the use of the amount, and

(a) the recipient is the spouse or former spouse of the payer, the recipient and payer are living separate and apart because

of the breakdown of their marriage and the amount is receivable under an order of a competent tribunal or under a written agreement; or

(b) the payer is a natural parent of a child of the recipient and the amount is receivable under an order made by a competent tribunal in accordance with the laws of a province.

**(7) Subsections (1) to (5) apply to amounts received after 1996.**

**(8) Subsection (6) applies after 1996, except that a support amount, as defined in subsection 56.1(4) of the Act, as enacted by subsection (6), does not include an amount that if paid and received would, but for this Act, not be included in computing the income of the recipient of the amount.**

**10. (1) Paragraphs 60(b) and (c) of the Act are replaced by the following:**

Support

(b) the total of all amounts each of which is an amount determined by the formula

$$A - (B + C)$$

where

A is the total of all amounts each of which is a support amount paid after 1996 and before the end of the year by the taxpayer to a particular person, where the taxpayer and the particular person were living separate and apart at the time the amount was paid,

B is the total of all amounts each of which is a child support amount that became payable by the taxpayer to the particular person under an agreement or order on or after its commencement day and before the end of the year in respect of a period that began after its commencement day, and

C is the total of all amounts each of which is a support amount paid by the taxpayer to the particular person after 1996 and deductible in computing the taxpayer's income for a preceding taxation year;

**(2) Subsection (1) applies to amounts received after 1996.**

**11. (1) Subsection 60.1(1) of the Act is replaced by the following:**

Support

**60.1** (1) For the purposes of paragraph 60(b) and subsection 118(5), where an order or agreement, or any variation thereof, provides for the payment of an amount by a taxpayer to a person or for the benefit of the person, children in the person's custody or both the person and those children, the amount or any part thereof

(a) when payable, is deemed to be payable to and receivable by that person; and

(b) when paid, is deemed to have been paid to and received by that person.

**(2) The portion of subsection 60.1(2) of the Act before the formula is replaced by the following:**

Agreement

(2) For the purposes of section 60, this section and subsection 118(5), the amount determined by the formula

**(3) The description of A in subsection 60.1(2) of the Act is replaced by the following:**

A is the total of all amounts each of which is an amount (other than an amount that is otherwise a support amount) that became payable by a taxpayer in a taxation year, under an order of a competent tribunal or under a written agreement, in respect of an expense (other than an expenditure in respect of a self-contained domestic establishment in which the taxpayer resides or an expenditure for the acquisition of tangible property that is not an expenditure on account of a medical or education expense or in respect of the acquisition, improvement or maintenance of a self-contained domestic establishment in which the person described in paragraph (a) or (b) resides) incurred in the year or the preceding taxation year for the maintenance of a person, children in the person's custody or both the person and those children, where the person is

(a) the taxpayer's spouse or former spouse, or

(b) where the amount became payable under an order made by a competent tribunal in accordance with the laws of a province, an individual who is a parent of a child of whom the taxpayer is a natural parent,

and

**(4) The portion of subsection 60.1(2) of the Act after the description of B is replaced by the following:**

is, where the order or written agreement, as the case may be, provides that this subsection and subsection 56.1(2) shall apply to

any amount paid or payable thereunder, deemed to be an amount payable by the taxpayer to that person and receivable by that person as an allowance on a periodic basis, and that person is deemed to have discretion as to the use of that amount.

**(5) Subsection 60.1(3) of the Act is replaced by the following:**

Prior payments

(3) For the purposes of this section and section 60, where a written agreement or order of a competent tribunal made at any time in a taxation year provides that an amount paid before that time and in the year or the preceding taxation year is to be considered to have been paid and received thereunder,

(a) the amount is deemed to have been paid thereunder; and

(b) the agreement or order is deemed, except for the purpose of this subsection, to have been made on the day on which the first such amount was paid.

**(6) Section 60.1 of the Act is amended by adding the following after subsection (3):**

Definitions

(4) The definitions in subsection 56.1(4) apply in this section and section 60.

**(7) Subsections (1) to (5) apply to amounts paid after 1996.**

**(8) Subsection (6) applies after 1996.**

**12. (1) Paragraph 63(1)(f) of the Act is replaced by the following:**

(f) the total of all amounts each of which is an amount that is deducted, in respect of the taxpayer's eligible children for the year, under this section in computing the income for the year of an individual (other than the taxpayer) to whom subsection (2) applies for the year.

**(2) Subparagraph 63(2)(b)(iii) of the Act is replaced by the following:**

(iii) a student in attendance at a designated educational institution (as defined in subsection 118.6(1)) or a secondary school and enrolled in a program of the institution or school of not less than 3 consecutive weeks duration that provides that each student in the program spend not less than 10 hours per week on courses or work in the program,

**(3) Section 63 of the Act is amended by adding the following after subsection (2.1):**

Expenses while  
at school

(2.2) There may be deducted in computing a taxpayer's income for a taxation year such part of the amount determined under subsection (2.3) as the taxpayer claims, where

(a) the taxpayer is, at any time in the year, a student in attendance at a designated educational institution (as defined in subsection 118.6(1)) or a secondary school and enrolled in a program of the institution or school of not less than 3 consecutive weeks duration that provides that each student in the program spend not less than 10 hours per week on courses or work in the program;

(b) there is no supporting person of an eligible child of the taxpayer for the year or the income of the taxpayer for the year exceeds the income for the year of a supporting person of the child (on the assumption that both incomes are computed without reference to this section and paragraphs 60(v.1) and (w)); and

(c) a prescribed form containing prescribed information is filed with the taxpayer's return of income (other than a return filed under subsection 70(2) or 104(23), paragraph 128(2)(e) or subsection 150(4)) for the year.

Amount  
deductible

(2.3) For the purpose of subsection (2.2), the amount determined in respect of a taxpayer for a taxation year is the least of

(a) the amount by which the total of all amounts, each of which is an amount paid as or on account of child care expenses incurred for services rendered in the year in respect of an eligible child of the taxpayer, exceeds the amount that is deductible under subsection (1) in computing the taxpayer's income for the year,

(b) 2/3 of the taxpayer's income for the year computed without reference to this section and paragraphs 60(v.1) and (w),

(c) the amount determined by the formula

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

where

A is the product obtained when \$150 is multiplied by the number of eligible children of the taxpayer for the year each of whom is

(i) under 7 years of age at the end of the year, or

(ii) 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,

B is the product obtained when \$90 is multiplied by the number of the taxpayer's eligible children for the year (other than those referred to in the description of A), and

C is

(i) where there is a supporting person of an eligible child of the taxpayer for the year, the number of weeks, in the year, in which both the taxpayer and the supporting person were students described in paragraph (2.2)(a), and

(ii) in any other case, the number of weeks, in the year, in which the taxpayer was a student described in paragraph (2.2)(a),

(d) the amount by which the total calculated under subparagraph (1)(e)(ii) in respect of eligible children of the taxpayer for the year exceeds the amount that is deductible under subsection (1) in computing the taxpayer's income for the year, and

(e) where there is a supporting person of an eligible child of the taxpayer for the year, the amount by which the amount calculated under paragraph (2)(b) for the year in respect of the taxpayer exceeds 2/3 of the taxpayer's earned income for the year.

**(4) Paragraph (a) of the definition "child care expense" in subsection 63(3) of the Act is amended by striking out the word "or" at the end of subparagraph (iii), by replacing the word "and" at the end of subparagraph (iv) with the word "or" and by adding the following after subparagraph (iv):**

(v) to attend a designated educational institution (as defined in subsection 118.6(1)) or a secondary school, where the taxpayer is enrolled in a program of the institution or school of not less than 3 consecutive weeks duration that provides that each student in the program spend not less than 10 hours per week on courses or work in the program, and

**(5) Paragraph (c) of the definition "eligible child" in subsection 63(3) of the Act is replaced by the following:**

(c) is under 16 years of age, or

**(6) The portion of the definition "supporting person" in subsection 63(3) of the Act before paragraph (a) is replaced by the following:**

"supporting  
person"  
« *personne  
assumant les  
frais  
d'entretien* »

"supporting person" of an eligible child of a taxpayer for a taxation year means a person, other than the taxpayer, who is

**(7) Subsections (1) to (5) apply to the 1996 and subsequent taxation years.**

**(8) Subsection (6) applies to the 1983 and subsequent taxation years.**

**13. (1) Subsections 66(10) to (10.3) of the Act are repealed.**

**(2) The portion of subsection 66(12.6) of the Act before paragraph (c) is replaced by the following:**

Canadian  
exploration  
expenses to  
flow-through  
shareholder

(12.6) Where a person gave consideration under an agreement to a corporation for the issue of a flow-through share of the corporation and, in the period that begins on the day the agreement was made and ends 24 months after the end of the month that includes that day, the corporation incurred Canadian exploration expenses, the corporation may, after it complies with subsection (12.68) in respect of the share and before March of the first calendar year that begins after the period, renounce, effective on the day on which the renunciation is made or on an earlier day set out in the form prescribed for the purposes of subsection (12.7), to the person in respect of the share the amount, if any, by which the part of those expenses that was incurred on or before the effective date of the renunciation (which part is in this subsection referred to as the "specified expenses") exceeds the total of

(a) the assistance that the corporation has received, is entitled to receive or can reasonably be expected to receive at any time, and that can reasonably be related to the specified expenses or



to Canadian exploration activities to which the specified expenses relate (other than assistance that can reasonably be related to expenses referred to in paragraph (b) or (b.1)),

(b) all specified expenses that are prescribed Canadian exploration and development overhead expenses of the corporation,

**(3) Subsection 66(12.6) of the Act is amended by adding the following after paragraph (b):**

(b.1) all specified expenses each of which is a cost of, or for the use of, seismic data

(i) that had been acquired (otherwise than as a consequence of performing work that resulted in the creation of the data) by any other person before the cost was incurred,

(ii) in respect of which a right to use had been acquired by any other person before the cost was incurred, or

(iii) all or substantially all of which resulted from work performed more than one year before the cost was incurred, and

**(4) Paragraph 66(12.6)(d) of the Act is replaced by the following:**

(d) exceeding the amount, if any, by which the consideration for the share exceeds the total of other amounts renounced under this subsection or subsection (12.601) or (12.62) in respect of the share on or before the day on which the renunciation is made, or

**(5) The portion of subsection 66(12.601) of the Act before paragraph (b) is replaced by the following:**

Flow-through  
share rules for  
first \$1  
million of  
Canadian  
development  
expenses

(12.601) Where

(a) a person gave consideration under an agreement to a corporation for the issue of a flow-through share of the corporation,

(a.1) the corporation's taxable capital amount at the time the consideration was given was not more than \$15,000,000, and

**(6) The portion of subsection 66(12.601) of the Act after paragraph (b) and before paragraph (e) is replaced by the following:**

<[ip0n,0n]>the corporation may, after it complies with subsection (12.68) in respect of the share and before March of the first calendar year that begins after that period, renounce, effective on the day on which the renunciation is made or on an earlier day set out in the form prescribed for the purposes of subsection (12.7), to the person in respect of the share the amount, if any, by which the part of those expenses that was incurred on or before the effective date of the renunciation (which part is in this subsection referred to as the "specified expenses") exceeds the total of

(c) the assistance that the corporation has received, is entitled to receive, or can reasonably be expected to receive at any time, and that can reasonably be related to the specified expenses or Canadian development activities to which the specified expenses relate (other than assistance that can reasonably be related to expenses referred to in paragraph (d)),

(d) all specified expenses that are prescribed Canadian exploration and development overhead expenses of the corporation, and

**(7) Section 66 of the Act is amended by adding the following after subsection 66(12.601):**

Taxable capital  
amount

(12.6011) For the purpose of subsection (12.601), a particular corporation's taxable capital amount at any time is the total of

(a) its taxable capital employed in Canada for its last taxation year that ended more than 30 days before that time, and

(b) the total of all amounts each of which is the taxable capital employed in Canada of another corporation associated at that time with the particular corporation for the other corporation's last taxation year that ended more than 30 days before that time.

Taxable capital  
employed in  
Canada

(12.6012) For the purpose of determining a corporation's taxable capital amount at a particular time under subsection (12.6011) and for the purpose of subsection (12.6013), a particular corporation's taxable capital employed in Canada for a taxation year is the amount that would be its taxable capital employed in Canada for the

year, determined in accordance with subsection 181.2(1) and without reference to the portion of its investment allowance (as determined under subsection 181.2(4)) that is attributable to shares of the capital stock of, dividends payable by, or indebtedness of, another corporation that

(a) was not associated with the particular corporation at the particular time; and

(b) was associated with the particular corporation at the end of the particular corporation's last taxation year that ended more than 30 days before that time.

Amalgamations  
and mergers

(12.6013) For the purpose of determining the taxable capital amount at a particular time under subsection (12.6011) of any corporation and for the purpose of this subsection, a particular corporation that was created as a consequence of an amalgamation or merger of other corporations (each of which is in this subsection referred to as a "predecessor corporation"), and that does not have a taxation year that ended more than 30 days before the particular time, is deemed to have taxable capital employed in Canada for a taxation year that ended more than 30 days before the particular time equal to the total of all amounts each of which is the taxable capital employed in Canada of a predecessor corporation for its last taxation year that ended more than 30 days before the particular time.

**(8) Paragraph 66(12.602)(a) of the Act is replaced by the following:**

(a) the particular amount exceeds the amount, if any, by which the consideration for the share exceeds the total of other amounts renounced in respect of the share under subsection (12.6), (12.601) or (12.62) on or before the day on which the renunciation is made;

**(9) The portion of paragraph 66(12.602)(c) of the Act after subparagraph (ii) is replaced by the following:**

exceeds \$1,000,000.

**(10) The portion of subsection 66(12.61) of the Act before paragraph (a) is replaced by the following:**

Effect of  
renunciation

(12.61) Subject to subsections (12.69) to (12.702), where under subsection (12.6) or (12.601) a corporation renounces an amount to a person,

**(11) The portion of subsection 66(12.62) of the Act before paragraph (c) is replaced by the following:**

Canadian  
development  
expenses to  
flow-through  
shareholder

(12.62) Where a person gave consideration under an agreement to a corporation for the issue of a flow-through share of the corporation and, in the period that begins on the day the agreement was made and ends 24 months after the end of the month that includes that day, the corporation incurred Canadian development expenses, the corporation may, after it complies with subsection (12.68) in respect of the share and before March of the first calendar year that begins after the period, renounce, effective on the day on which the renunciation is made or on an earlier day set out in the form prescribed for the purposes of subsection (12.7), to the person in respect of the share the amount, if any, by which the part of those expenses that was incurred on or before the effective date of the renunciation (which part is in this subsection referred to as the "specified expenses") exceeds the total of

(a) the assistance that the corporation has received, is entitled to receive, or can reasonably be expected to receive at any time, and that can reasonably be related to the specified expenses or to Canadian development activities to which the specified expenses relate (other than assistance that can reasonably be related to expenses referred to in paragraph (b) or (b.1)),

(b) all specified expenses that are prescribed Canadian exploration and development overhead expenses of the corporation,

**(12) Subsection 66(12.62) of the Act is amended by adding the following after paragraph (b):**

(b.1) all specified expenses that are described in paragraph (e) of the definition "Canadian development expense" in subsection 66.2(5) or that are described in paragraph (f) of that definition because of the reference in the latter paragraph to paragraph (e), and

**(13) Paragraph 66(12.62)(d) of the Act is replaced by the following:**

(d) exceeding the amount, if any, by which the consideration for the share exceeds the total of other amounts renounced in respect of the share under this subsection or subsection (12.6) or (12.601) on or before the day on which the renunciation is made, or

**(14) The portion of subsection 66(12.63) of the Act before paragraph (a) is replaced by the following:**

Effect of  
renunciation

(12.63) Subject to subsections (12.691) to (12.702), where under subsection (12.62) a corporation renounces an amount to a person,

**(15) Subsections 66(12.64) and (12.65) of the Act are repealed.**

**(16) Paragraph 66(12.66)(a) of the Act is replaced by the following:**

<?[ip0n,0n]>(a) a corporation that issues a flow-through share to a person under an agreement incurs, in a particular calendar year, Canadian exploration expenses or Canadian development expenses,

(a.1) the agreement was made in the preceding calendar year,

**(17) Paragraph 66(12.66)(b) of the Act is replaced by the following:**

(b) the expenses

(i) are described in paragraph (a), (d) or (f) of the definition "Canadian exploration expense" in subsection 66.1(6) or paragraph (a) or (b) of the definition "Canadian development expense" in subsection 66.2(5),

(ii) would be described in paragraph (h) of the definition "Canadian exploration expense" in subsection 66.1(6) if the words "paragraphs (a), (b), (c), (d), (f) and (g)" were read as "paragraphs (a), (d) and (f)", or

(iii) would be described in paragraph (f) of the definition "Canadian development expense" in subsection 66.2(5) if the words "any of paragraphs (a) to (e)" were read as "paragraph (a) or (b)",

**(18) Paragraphs 66(12.66)(c), (d) and (e) of the Act are replaced by the following:**

(c) before the end of that preceding year the person paid the consideration in money for the share to be issued,

(d) the corporation and the person deal with each other at arm's length throughout the particular year, and

(e) in January, February or March of the particular year, the corporation renounces an amount in respect of the expenses to the person in respect of the share in accordance with subsection (12.6) or (12.601) and the effective date of the renunciation is the last day of that preceding year,

**(19) Paragraph 66(12.67)(a) of the Act is replaced by the following:**

(a) not to have renounced under any of subsections (12.6), (12.601) and (12.62) any expenses that are deemed to have been incurred by it because of a renunciation under this section by another corporation that is not related to it;

**(20) The portion of paragraph 66(12.671)(c) of the Act before subparagraph (i) is replaced by the following:**

(c) with the partnership if any part of the amount renounced would, but for subsection (12.7001), be included, because of paragraph (h) of the definition "Canadian exploration expense" in subsection 66.1(6), in the Canadian exploration expense of

**(21) Subsection 66(12.69) of the Act is replaced by the following:**

Filing re  
partners

(12.69) Where, in a fiscal period of a partnership, an expense is incurred by the partnership as a consequence of a renunciation of an amount under subsection (12.6), (12.601) or (12.62), the partnership shall, before the end of the third month that begins after the end of the period, file with the Minister a prescribed form identifying the share of the expense attributable to each member of the partnership at the end of the period.

Consequences of  
failure to file

(12.6901) Where a partnership fails to file a prescribed form as required under subsection (12.69) in respect of an expense, except for the purpose of subsection (12.69) the partnership is deemed not to have incurred the expense.

**(22) The portion of subsection 66(12.691) of the Act before paragraph (a) is replaced by the following:**

Filing re  
assistance

(12.691) Where a partnership receives or becomes entitled to receive assistance as an agent for its members or former members at a particular time in respect of any Canadian exploration expense or Canadian development expense that is or, but for paragraph (12.61)(b) or (12.63)(b), would be incurred by a corporation, the following rules apply:

**(23) Subsections 66(12.7) to (12.73) of the Act are replaced by the following:**

Filing re  
renunciation

(12.7) Where a corporation renounces an amount in respect of Canadian exploration expenses or Canadian development expenses under subsection (12.6), (12.601) or (12.62), the corporation shall file a prescribed form in respect of the renunciation with the Minister before the end of the first month after the month in which the renunciation is made.

Consequences of  
failure to file

(12.7001) Where a corporation fails to file a prescribed form as required under subsection (12.7) in respect of a renunciation of an amount, subsections (12.61) and (12.63) do not apply in respect of the amount.

Filing re  
assistance

(12.701) Where a corporation receives or becomes entitled to receive assistance as an agent in respect of any Canadian exploration expense or Canadian development expense that is or, but for paragraph (12.61)(b) or (12.63)(b), would be incurred by the corporation, the corporation shall, before the end of the first month after the particular month in which it first becomes known to the corporation that a person that holds a flow-through share of the corporation is entitled to a share of any part of the assistance, file with the Minister a prescribed form identifying the share of the assistance to which each of those persons is entitled at the end of the particular month.

Consequences of  
failure to file

(12.702) Where a corporation fails to file a prescribed form as required under subsection (12.701) in respect of assistance, except for the purpose of subsection (12.701) the Canadian exploration expense or Canadian development expense to which the assistance relates is deemed not to have been incurred by the corporation.

Restriction on  
renunciation

(12.71) A corporation may renounce an amount under subsection (12.6), (12.601) or (12.62) in respect of Canadian exploration expenses or Canadian development expenses incurred by it only to the extent that, but for the renunciation, it would be entitled to a deduction in respect of the expenses in computing its income.

Reductions in  
renunciations

(12.73) Where an amount that a corporation purports to renounce to a person under subsection (12.6), (12.601) or (12.62) exceeds the amount that it can renounce to the person under that subsection,

(a) the corporation shall file a statement with the Minister in prescribed form where

(i) the Minister sends a notice in writing to the corporation demanding the statement, or

(ii) the excess arose as a consequence of a renunciation purported to be made in a calendar year under subsection (12.6) or (12.601) because of the application of subsection (12.66) and, at the end of the year, the corporation knew or ought to have known of all or part of the excess;

(b) where subparagraph (a)(i) applies, the statement shall be filed not later than 30 days after the Minister sends a notice in writing to the corporation demanding the statement;

(c) where subparagraph (a)(ii) applies, the statement shall be filed before March of the calendar year following the calendar year in which the purported renunciation was made;

(d) except for the purpose of Part XII.6, any amount that is purported to have been so renounced to any person is deemed, after the statement is filed with the Minister, to have always been reduced by the portion of the excess identified in the statement in respect of that purported renunciation; and

(e) where a corporation fails in the statement to apply the excess fully to reduce one or more purported renunciations, the Minister may at any time reduce the total amount purported to be renounced by the corporation to one or more persons by the amount of the unapplied excess in which case, except for the purpose of Part XII.6, the amount purported to have been so renounced to a person is deemed, after that time, always to have been reduced by the portion of the unapplied excess allocated by the Minister in respect of that person.



**(24) The portion of subsection 66(12.741) of the Act before paragraph (a) is replaced by the following:**

Late  
renunciation

(12.741) Where a corporation purports to renounce an amount under subsection (12.6), (12.601) or (12.62) after the period in which the corporation was entitled to renounce the amount, the amount is deemed, except for the purposes of this subsection and subsections (12.7) and (12.75), to have been renounced at the end of the period if

**(25) Subparagraph 66(12.75)(a)(ii) of the Act is replaced by the following:**

(ii) 1/4 of 1% of the maximum amount in respect of the Canadian exploration expenses and Canadian development expenses renounced or attributed or to be renounced or attributed as set out in the document;

**(26) Paragraphs (a) and (b) of the definition "flow-through share" in subsection 66(15) of the Act are replaced by the following:**

(a) to incur, in the period that begins on the day the agreement was made and ends 24 months after the end of the month that includes that day, Canadian exploration expenses or Canadian development expenses in an amount not less than the consideration for which the share is to be issued, and

(b) to renounce, before March of the first calendar year that begins after that period, in prescribed form to the person in respect of the share, an amount in respect of the Canadian exploration expenses or Canadian development expenses so incurred by it not exceeding the consideration received by the corporation for the share,

**(27) The definition "foreign exploration and development expenses" in subsection 66(15) of the Act is amended by adding the following after paragraph (e):**

but does not include

(f) any amount included at any time in the capital 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, or

(i) an expenditure incurred at any time relating to the injection of any substance to assist in the recovery of petroleum, natural gas or related hydrocarbons from a natural reservoir;

**(28) The definition "principal-business corporation" in subsection 66(15) of the Act is amended by striking out the word "and" at the end of paragraph (f.1) and by adding the following after paragraph (g):**

(h) the generation of energy using property described in Class 43.1 of Schedule II to the *Income Tax Regulations*, and

(i) the development of projects for which it is reasonable to expect that at least 50% of the capital cost of the depreciable property to be used in each project would be the capital cost of property described in Class 43.1 of Schedule II to the *Income Tax Regulations*,

**(29) Subsection 66(16) of the Act is replaced by the following:**

Partnerships

(16) For the purposes of subsections (12.6) to (12.73), the definitions "assistance" and "flow-through share" in subsection (15) and subsections (18), (19) and 66.3(3) and (4), a partnership is deemed to be a person and its taxation year is deemed to be its fiscal period.

**(30) 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) 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" 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.

**(31) Subsection 66(19) of the Act is replaced by the following:**

Renunciation by  
corporate  
partner, etc.

(19) A corporation is not entitled to renounce under subsection (12.6), (12.601) or (12.62) to a person a specified amount in respect of the corporation where the corporation would not be entitled to so renounce the specified amount if

(a) the expression "end of that fiscal period" in subsection (18) were read as "time the outlay or expense was made or incurred by the partnership"; and

(b) the expression "on the effective date of the renunciation" in each of paragraphs (12.61)(a) and (12.63)(a) were read as "at the earliest time that any part of such expense was incurred by the corporation".

Specified  
amount

(20) For the purpose of subsection (19), a specified amount in respect of a corporation is an amount that represents

(a) all or part of the corporation's share of an outlay or expense made or incurred by a partnership of which the corporation is a member or former member; or

(b) all or part of an amount renounced to the corporation under subsection (12.6), (12.601) or (12.62).

**(32) Subsection (1) applies to renunciations made**

(a) after 2006, in respect of a payment or loan received by a joint exploration corporation before March 6, 1996;

(b) after 2006, in respect of a payment or loan received by a joint exploration corporation after March 5, 1996 under an agreement in writing made

(i) by the corporation before March 6, 1996, or

(ii) by another corporation before March 6, 1996, where

(A) the other corporation controlled the corporation at the time the agreement was made, or

(B) the other corporation undertook, at the time the agreement was made, to form the corporation; and

(c) after March 5, 1996, in any other case.

(33) Subsections (2) and (11) apply to expenses incurred after February 1996.

(34) Subsection (3) applies to costs incurred after March 5, 1996, other than costs incurred under an agreement in writing made before March 6, 1996.

(35) Subsections (4), (8), (10), (13), (14) and (19) to (22), subsections 66(12.7) to (12.71) of the Act, as enacted by subsection (23), and subsections (24) to (26) and (31) apply to renunciations made after 1998.

(36) Subsections (5), (9), (12) and (15) apply to renunciations made after March 5, 1996, other than a renunciation made before 1999 in respect of consideration given

(a) before March 6, 1996; or

(b) under an agreement in writing made before March 6, 1996 or under the terms of a prospectus, preliminary prospectus, registration statement, offering memorandum or notice filed before March 6, 1996 with a public authority in Canada in accordance with securities legislation of a province.

(37) Subsection (6) applies to expenses incurred after December 2, 1992.

(38) Subsection (7) applies after March 5, 1996, except that the amount determined under subsection 66(12.6011) of the Act, as enacted by subsection (7), in respect of a renunciation by a corporation shall be determined as if each other corporation associated with the corporation were not so associated where the renunciation was made before 1999 in respect of consideration given

(a) before December 6, 1996; or

(b) under an agreement in writing made before December 6, 1996 or under the terms of a prospectus, preliminary prospectus, registration statement, offering memorandum or notice filed

before December 7, 1996 with a public authority in Canada in accordance with securities legislation of a province.

(39) Subsections (16) and (18) apply to expenses incurred after 1996, except that

(a) those subsections do not apply to expenses incurred in January or February of 1997 in respect of an agreement that was made in 1995; and

(b) for the purpose of applying paragraph 66(12.66)(a.1) of the Act, as enacted by subsection (16), to expenses incurred in 1998, any agreement made in 1996 is deemed to have been made in 1997.

(40) Subsection (17) applies to expenses incurred after 1992.

(41) Subsection 66(12.73) of the Act, as enacted by subsection (23), applies to purported renunciations made after 1996 except that, in respect of purported renunciations made before 1999, the portion of that subsection 66(12.73) before paragraph (a) shall be read as:

(12.73) Where an amount that a corporation purports to renounce to a person under subsection (12.6), (12.601), (12.62) or (12.64) exceeds the amount it can renounce to the person under that subsection,

(42) Subsection (27) applies to taxation years that end after December 5, 1996.

(43) Subsection (28) applies after December 5, 1996.

(44) Subsection (29) applies to fiscal periods that end after 1995.

(45) Subsection (30) applies to fiscal periods that end after 1996.

14. (1) The portion of subsection 66.1(2) of the Act before paragraph (a) is replaced by the following:

Deduction for  
certain  
principal-  
business  
corporations

(2) In computing the income for a taxation year of a principal-business corporation (other than a corporation that would not be a principal-business corporation if the definition "principal-business corporation" in subsection 66(15) were read without reference to paragraphs (h) and (i) of that definition), there may

be deducted any amount that the corporation claims not exceeding the lesser of

**(2) The portion of subsection 66.1(3) of the Act before paragraph (a) is replaced by the following:**

Expenses of  
other taxpayer

(3) In computing the income for a taxation year of a taxpayer that is not a principal-business corporation, or that is a corporation that would not be a principal-business corporation if the definition "principal-business corporation" in subsection 66(15) were read without reference to paragraphs (h) and (i) of that definition, there may be deducted such amount as the taxpayer claims not exceeding the total of

**(3) Paragraph (h) of the definition "Canadian exploration expense" in subsection 66.1(6) of the Act is replaced by the following:**

(g.1) any Canadian renewable and conservation expense incurred by the taxpayer,

(h) subject to section 66.8, the taxpayer's share of any expense referred to in any of paragraphs (a) to (d) and (f) to (g.1) incurred by a partnership in a fiscal period thereof, if at the end of the period the taxpayer is a member of the partnership, or

**(4) The definition "Canadian exploration expense" in subsection 66.1(6) of the Act is amended by striking out the word "or" at the end of paragraph (j) and by adding the following after paragraph (k):**

(l) any amount (other than a Canadian renewable and conservation expense) included at any time in the capital cost to the taxpayer of any depreciable property of a prescribed class,

(m) an expenditure incurred at any time after the commencement of production from a Canadian resource property of the taxpayer in order to evaluate the feasibility of a method of recovery of, or to assist in the recovery of, petroleum, natural gas or related hydrocarbons from the portion of a natural reservoir to which the Canadian resource property relates,

(n) an expenditure incurred at any time relating to the injection of any substance to assist in the recovery of petroleum, natural gas or related hydrocarbons from a natural reservoir, or

(o) the taxpayer's share of any consideration, expense, cost or expenditure referred to in any of paragraphs (j) to (n) given or incurred by a partnership,

**(5) Subsection 66.1(6) of the Act is amended by adding the following in alphabetical order:**

"Canadian  
renewable and  
conservation  
expense"  
« *fraîs liés  
aux énergies  
renouvelables  
et à l'économie  
d'énergie au  
Canada* »

"Canadian renewable and conservation expense" has the meaning assigned by regulation, and for the purpose of determining whether an outlay or expense meets the criteria set out in the Regulations in respect of Canadian renewable and conservation expenses, the *Technical Guide to Canadian Renewable and Conservation Expenses*, as amended from time to time and published by the Department of Natural Resources, shall apply conclusively with respect to engineering and scientific matters;

**(6) Subsection 66.1(8) of the Act is repealed.**

**(7) Subsections (1), (2) and (4) apply to taxation years that end after December 5, 1996.**

**(8) Subsections (3) and (5) apply after December 5, 1996.**

**(9) Subsection (6) applies after March 6, 1996.**

**15. (1) The definition "Canadian development expense" in subsection 66.2(5) 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) any amount included at any time in the capital cost to the taxpayer of any depreciable property of a prescribed class, or

(k) the taxpayer's share of any consideration, expense, cost or expenditure referred to in any of paragraphs (h) to (j) given or incurred by a partnership,

**(2) Subsection (1) applies to taxation years that end after December 5, 1996.**

**16. (1) 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 exploration and development 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:

**(2) Subsection (1) applies to taxation years that begin after 1998.**

**17. (1) Paragraph 85(1.1)(b) of the Act is replaced by the following:**

(b) a capital property that is real property, or an interest in or an option in respect of real property, owned by a non-resident insurer where that property and the property received as consideration for that property are designated insurance property for the year;

**(2) Subsection (1) applies to dispositions that occur in an insurer's 1996 or subsequent taxation year.**

**18. (1) Clause 87(2)(d)(ii)(C) of the Act is replaced by the following:**

(C) a reference in subparagraph 13(5)(b)(ii) to amounts that would have been deducted in respect of property in computing a taxpayer's income shall be construed as including a reference to amounts that would have been deducted in respect of that property in computing a predecessor corporation's income, and

**(2) Paragraph 87(2)(oo) of the Act is replaced by the following:**

Investment tax  
credit

(oo) for the purpose of applying subsection 127(10.2) to any corporation, the new corporation is deemed to have had

(i) a particular taxation year that

(A) where it was associated with another corporation in the new corporation's first taxation year, ended in the calendar



year that precedes the calendar year in which that first year ends, and

(B) in any other case, immediately precedes that first year, and

(ii) taxable income for the particular year (determined before taking into consideration the specified future tax consequences for the particular year) equal to the total of all amounts each of which is a predecessor corporation's taxable income for its taxation year that ended immediately before the amalgamation (determined before taking into consideration the specified future tax consequences for that year);

**(3) Subsection 87(2) of the Act is amended by adding the following after paragraph (oo):**

Refundable  
investment tax  
credit and  
balance-due day

(oo.1) for the purpose of applying subparagraph 157(1)(b)(i) and the definition "qualifying corporation" in subsection 127.1(2) to any corporation, the new corporation is deemed to have had

(i) a particular taxation year that

(A) where it was associated with another corporation in the new corporation's first taxation year, ended in the calendar year that precedes the calendar year in which that first year ends, and

(B) where clause (A) does not apply, immediately precedes that first year,

(ii) taxable income for the particular year (determined before taking into consideration the specified future tax consequences for the particular year) equal to the total of all amounts each of which is a predecessor corporation's taxable income for its taxation year that ended immediately before the amalgamation (determined before taking into consideration the specified future tax consequences for that year), and

(iii) a business limit for the particular year equal to the total of all amounts each of which is a predecessor corporation's business limit for its taxation year that ended immediately before the amalgamation;

**(4) Subsection 87(2.2) of the Act is replaced by the following:**

Amalgamation of  
insurers

(2.2) Where there has been an amalgamation and one or more of the predecessor corporations was an insurer, the new corporation is, notwithstanding subsection (2), deemed, for the purposes of paragraphs 12(1)(d), (e), (e.1), (i) and (s) and 20(1)(l), (l.1), (p) and (jj) and 20(7)(c), subsection 20(22), sections 138, 138.1, 140, 142 and 148 and Part XII.3, to be the same corporation as, and a continuation of, each of those predecessor corporations.

**(5) The portion of subsection 87(4.4) of the Act after paragraph (d) and before paragraph (e) is replaced by the following:**

for the purposes of subsection 66(12.66) and Part XII.6 and for the purposes of renouncing an amount under subsection 66(12.6), (12.601) or (12.62) in respect of Canadian exploration expenses or Canadian development expenses that would, but for the renunciation, be incurred by the new corporation after the amalgamation,

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

**(7) Subsections (2) and (4) apply to amalgamations that occur after 1995, except that, for amalgamations that occur in 1996, the expression "any corporation" in paragraph 87(2)(oo) of the Act, as enacted by subsection (2), shall be read as "the new corporation".**

**(8) For amalgamations that occur after May 23, 1985 and before 1996, paragraph 87(2)(oo) of the Act shall be read without reference to the expression "paragraph 127.1(2)(a) and subparagraph 157(1)(b)(i)".**

**(9) Subsection (3) applies to amalgamations that occur after May 23, 1985, except that,**

**(a) for amalgamations that occur before 1997, the expression "any corporation" in paragraph 87(2)(oo.1) of the Act, as enacted by subsection (3), shall be read as "the new corporation";**

**(b) for the purpose of applying that paragraph for the purpose of the definition "qualifying corporation" in subsection 127.1(2) of the Act, the business limits referred to in that paragraph, for taxation years that ended after June 1994 and began before 1996, shall be determined under section 125 of the Act as that section read in its application to taxation years that ended before July 1994; and**

**(c) clause 87(2)(oo.1)(i)(A) of the Act, as enacted by subsection (3), does not apply**

(i) for the purpose of applying the definition "qualifying corporation" in subsection 127.1(2) of the Act to taxation years that ended before July 1994, and

(ii) for the purpose of applying subparagraph 157(1)(b)(i) of the Act to taxation years that end before 1998.

(10) Subsection (5) applies to amalgamations that occur after 1995, except that the expression "subsection 66(12.6), (12.601) or (12.62)" in subsection 87(4.4) of the Act, as amended by subsection (5), shall be read as "subsection 66(12.6), (12.601), (12.62) or (12.64)" in respect of amalgamations that occur before 1999.

19. (1) Paragraph 88(1)(e.8) of the Act is replaced by the following:

(e.8) for the purpose of applying subsection 127(10.2) to any corporation (other than the subsidiary)

(i) where the parent is associated with another corporation in a taxation year (in this paragraph referred to as the "current year") of the parent that begins after the parent received an asset of the subsidiary on the winding-up and that ends in a calendar year,

(A) the parent's taxable income for its last taxation year that ended in the preceding calendar year (determined before taking into consideration the specified future tax consequences for that last year) is deemed to be the total of

(I) its taxable income for that last year (determined before applying this paragraph to the winding-up and before taking into consideration the specified future tax consequences for that last year), and

(II) the total of the subsidiary's taxable incomes for its taxation years that ended in that preceding calendar year (determined without reference to clause (B) and before taking into consideration the specified future tax consequences for those years), and

(B) the subsidiary's taxable income for each of its taxation years that ends after the first time that the parent receives an asset of the subsidiary on the winding-up of the subsidiary is deemed to be nil, and

(ii) where the parent received an asset of the subsidiary on the winding-up before the current year and is not associated with any corporation in the current year, the parent's taxable income for its immediately preceding taxation year (determined before taking into consideration the specified future tax

consequences for that preceding year) is deemed to be the total of

(A) its taxable income for that preceding taxation year (determined before applying this paragraph to the winding-up and before taking into consideration the specified future tax consequences for that preceding taxation year), and

(B) the total of the subsidiary's taxable incomes for its taxation years that ended in the calendar year in which that preceding taxation year ended (determined before taking into consideration the specified future tax consequences for those years);

**(2) Subsection 88(1) of the Act is amended by adding the following after paragraph (e.8):**

(e.9) for the purpose of applying subparagraph 157(1)(b)(i) and the definition "qualifying corporation" in subsection 127.1(2) to any corporation (other than the subsidiary)

(i) where the parent is associated with another corporation in a taxation year (in this paragraph referred to as the "current year") of the parent that begins after the parent received an asset of the subsidiary on the winding-up and ends in a calendar year,

(A) the parent's taxable income for its last taxation year that ended in the preceding calendar year (determined before taking into consideration the specified future tax consequences for that last year) is deemed to be the total of

(I) its taxable income for that last year (determined before applying this paragraph to the winding-up and before taking into consideration the specified future tax consequences for that last year), and

(II) the total of the subsidiary's taxable incomes for its taxation years that ended in that preceding calendar year (determined without reference to subparagraph (iii) and before taking into consideration the specified future tax consequences for those years), and

(B) the parent's business limit for that last year is deemed to be the total of

(I) its business limit (determined before applying this paragraph to the winding-up) for that last year, and

(II) the total of the subsidiary's business limits (determined without reference to subparagraph (iii)) for

its taxation years that ended in that preceding calendar year,

(ii) where the parent received an asset of the subsidiary on the winding-up before the current year and subparagraph (i) does not apply,

(A) the parent's taxable income for its immediately preceding taxation year (determined before taking into consideration the specified future tax consequences for that preceding year) is deemed to be the total of

(I) its taxable income for that preceding taxation year (determined before applying this paragraph to the winding-up and before taking into consideration the specified future tax consequences for that preceding taxation year), and

(II) the total of the subsidiary's taxable incomes for the subsidiary's taxation years that end in the calendar year in which that preceding taxation year ended (determined before taking into consideration the specified future tax consequences for those years), and

(B) the parent's business limit for that preceding taxation year is deemed to be the total of

(I) its business limit (determined before applying this paragraph to the winding-up) for that preceding taxation year, and

(II) the total of the subsidiary's business limits (determined without reference to subparagraph (iii)) for the subsidiary's taxation years that end in the calendar year in which that preceding taxation year ended, and

(iii) where the parent and the subsidiary are associated with each other in the current year, the subsidiary's taxable income and the subsidiary's business limit for each taxation year that ends after the first time that the parent receives an asset of the subsidiary on the winding-up are deemed to be nil;

**(3) Subparagraph 88(1)(g)(i) of the Act is replaced by the following:**

(i) for the purposes of paragraphs 12(1)(d), (e), (e.1), (i) and (s) and 20(1)(l), (l.1), (p) and (jj) and 20(7)(c), subsection 20(22), sections 138, 138.1, 140, 142 and 148 and Part XII.3, the parent is deemed to be the same corporation as, and a continuation of, the subsidiary, and

(4) Subsection (1) applies for the purpose of applying subsections 127(10.1) and (10.2) of the Act to taxation years that begin after 1995, except that, for taxation years that begin in 1996, the expression "any corporation (other than the subsidiary)" in paragraph 88(1)(e.8) of the Act, as enacted by subsection (1), shall be read as "the parent".

(5) For windings-up that begin after May 23, 1985, paragraph 88(1)(e.8) of the Act shall be read without reference to the expression "the definition "qualifying corporation" in subsection 127.1(2) and subparagraph 157(1)(b)(i)".

(6) Subsection (2) applies to windings-up that begin after May 23, 1985, except that

(a) the expression "any corporation (other than the subsidiary)" in paragraph 88(1)(e.9) of the Act, as enacted by subsection (2), shall be read as "the parent" with respect to windings-up that begin before 1997;

(b) for the purpose of applying that paragraph for the purpose of the definition "qualifying corporation" in subsection 127.1(2) of the Act, the business limits referred to in that paragraph, for taxation years that ended after June 1994 and began before 1996, shall be determined under section 125 of the Act as that section read in its application to taxation years that ended before July 1994; and

(c) subparagraph 88(1)(e.9)(i) of the Act, as enacted by subsection (2), does not apply

(i) for the purpose of applying the definition "qualifying corporation" in subsection 127.1(2) of the Act to taxation years that ended before July 1994, and

(ii) for the purpose of applying subparagraph 157(1)(b)(i) of the Act to taxation years that end before 1998.

(7) Subsection (3) applies to windings-up that begin after 1995.

20. (1) The portion of subparagraph 94(1)(c)(i) of the Act before clause (A) is 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 Part I tax and whose taxable income for the taxation year is the total of

(2) The portion of paragraph 94(1)(d) of the Act before subparagraph (i) is replaced by the following:

(d) in any other case, for the purposes of subsections 91(1) to (4) and sections 95 and 233.4,

**(3) Subsections (1) and (2) apply after 1995.**

**21. (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 this Act were read without reference to paragraphs 12(1)(z.5) and 20(1)(v.1), section 34.1 and subsections 66.1(1), 66.2(1) and 66.4(1) and as if 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 and 66.4;

**(2) Subsection (1) applies to fiscal periods that begin after 1996.**

**22. (1) The portion of paragraph 110.1(1)(a) of the Act after subparagraph (vii) is replaced by the following:**

not exceeding the amount determined by the formula

$$0.5(A + B)$$

where

A is its income for the year computed without reference to subsection 137(2), and

B is the total of all amounts each of which is the amount of a taxable capital gain from a gift of property made by it in the year to a donee described in this paragraph;

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

**23. (1) Subparagraph 115(1)(b)(ii.1) of the Act is replaced by the following:**

(ii.1) where the non-resident person is an insurer, any capital property that is its designated insurance property for the year,

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

**24. (1) Paragraph 117.1(1)(a) of the English version of the Act is amended by replacing the reference to "paragraphs 118(1)(a) and (b)" with "paragraphs (a) and (b) of the description of B in subsection 118(1)".**

**(2) The portion of subsection 117.1(1) of the Act after paragraph (b) and before paragraph (c) is replaced by the following:**

shall be adjusted, for each taxation year after 1996 for amounts referred to in paragraph (d) of the description of B in subsection 118(1), for each taxation year after 1990 for amounts referred to in subsection 122.5(3) and for each taxation year after 1988 in any other case, so that the amount to be used under those provisions for the year is an amount equal to the total of

**(3) Subsection 117.1(2) of the English version of the Act is amended by replacing the reference to "subparagraphs 118(1)(a)(ii) and (b)(iv)" with "subparagraphs (a)(ii) and (b)(iv) of the description of B in subsection 118(1)".**

**(4) Subsection (2) applies to the 1996 and subsequent taxation years.**

**25. (1) The portion of subsection 118(1) of the French version of the Act before paragraph (a) is replaced by the following:**

Crédits d'impôt  
personnels

**118. (1) Le produit de la multiplication du total des montants visés aux alinéas a) à e) par le taux de base pour l'année est déductible dans le calcul de l'impôt payable par un particulier en vertu de la présente partie pour une année d'imposition :**

**(2) The portion of paragraph (a) of the description of B in subsection 118(1) of the Act before subparagraph (i) is replaced by the following:**

Married status

(a) in the case of an individual who at any time in the year is a married person who supports the individual's spouse and is not living separate and apart from the spouse by reason of a breakdown of their marriage, an amount equal to the total of

**(3) The portion of paragraph (b) of the description of B in subsection 118(1) of the Act before subparagraph (i) is replaced by the following:**

Wholly  
dependent  
person

(b) in the case of an individual who does not claim a deduction for the year because of paragraph (a) and who, at any time in the year,



(4) Subsection 118(1) of the English version of the Act is amended by striking out the word "and" at the end of paragraph (c) of the description of B.

(5) The portion of paragraph (d) of the description of B in subsection 118(1) of the Act after subparagraph (ii) is replaced by the following:

the amount determined by the formula

$$\$6,456 - E$$

where

E is the greater of \$4,103 and the income for the year of the dependant, and

(6) The description of B in subsection 118(1) of the Act is amended by adding the following after paragraph (d):

Infirm  
dependant

(e) in the case of an individual entitled to a deduction in respect of a person because of paragraph (b) and who would also be entitled, but for paragraph (4)(c), to a deduction because of paragraph (d) in respect of the same person, the amount by which the amount that would be determined under paragraph (d) in respect of the person exceeds the amount determined under paragraph (b) in respect of the person.

(7) Subsection 118(4) of the English version of the Act is amended by

(a) replacing the reference in paragraph (a) to "by reason of paragraphs (1)(a) and (b)" with "because of paragraphs (a) and (b) of the description of B in subsection (1)";

(b) replacing the references in paragraphs (b) and (c) to "by reason of paragraph (1)(b)" with "because of paragraph (b) of the description of B in subsection (1)"; and

(c) replacing the reference in paragraph (e) to "by reason of paragraph (1)(d)" with "because of paragraph (d) of the description of B in subsection (1)".

(8) Subsection 118(5) of the Act is replaced by the following:

Support

(5) No amount may be deducted under subsection (1) in computing an individual's tax payable under this Part for a taxation year in

respect of a person where the individual is required to pay a support amount (as defined in subsection 56.1(4)) to the individual's spouse or former spouse in respect of the person and the individual

(a) lives separate and apart from the spouse or former spouse throughout the year because of the breakdown of their marriage; or

(b) claims a deduction for the year because of section 60 in respect of a support amount paid to the spouse or former spouse.

**(9) The portion of subsection 118(6) of the Act before paragraph (a) is replaced by the following:**

Definition of  
dependant

(6) For the purposes of paragraphs (d) and (e) of the description of B in subsection (1) and paragraph (4)(e), "dependant" of an individual for a taxation year means a person who at any time in the year is dependent on the individual for support and is

**(10) Subsections (1), (4), (5), (6) and (9) apply to the 1996 and subsequent taxation years.**

**(11) Subsections (2), (3) and (8) apply to the 1997 and subsequent taxation years.**

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

(a) the least of

(i) the individual's total charitable gifts for the year,

(ii) the individual's income for the year where the individual dies in the year or in the following taxation year, and

(iii) in any other case, the amount determined by the formula

$$0.5(A + B - C)$$

where

A is the individual's income for the year,

B is the total of all amounts each of which is the amount of a taxable capital gain from a gift of property made by the individual in the year to a

donee described in the definition "total charitable gifts", and

C is the total of all amounts each of which is the portion of an amount deducted under section 110.6 in computing the individual's taxable income for the year that can reasonably be considered to be in respect of a gift of capital property made by the individual in the year to a donee described in the definition "total charitable gifts",

**(2) Subsection (1) applies to the 1996 and subsequent taxation years and, where an individual dies in 1996, to the individual's 1995 taxation year.**

**27. Subparagraphs 118.3(2)(a)(i) and (ii) of the English version of the Act are replaced by the following:**

(i) paragraph (b) of the description of B in subsection 118(1), or

(ii) paragraph (d) of the description of B in subsection 118(1) where that person is the individual's child or grandchild,

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

$$A \times \$100 \times B$$

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

**29. (1) The descriptions of A, B and C in section 118.8 of the Act are replaced by the following:**

A is the lesser of \$850 and the total of all amounts each of which is deductible under section 118.5 or 118.6 in computing the spouse's tax payable under this Part for the year;

B is the total of all amounts each of which is deductible under subsection 118(2) or (3) or 118.3(1) in computing the spouse's tax payable under this Part for the year; and

C is the spouse's tax payable under this Part for the year computed before any deductions under this Division (other than a deduction under subsection 118(1) because of paragraph (c) of the description of B in that subsection or under section 118.7).

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

**30. (1) The description of A in subsection 118.9(1) of the Act is replaced by the following:**

A is the lesser of \$850 and the total of all amounts each of which is deductible under section 118.5 or 118.6 in computing the individual's tax payable under this Part for the year; and

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

**31. (1) Section 122.3 of the Act is amended by adding the following after subsection (1):**

Excluded Income

(1.1) No amount may be included under paragraph (1)(d) in respect of an individual's income for a taxation year from the individual's employment by an employer where

(a) the employer carries on a business of providing services and does not employ in the business throughout the year more than 5 full-time employees;

(b) the individual

(i) does not deal at arm's length with the employer, or is a specified shareholder of the employer, or

(ii) where the employer is a partnership, does not deal at arm's length with a member of the partnership, or is a specified shareholder of a member of the partnership; and

(c) but for the existence of the employer, the individual would reasonably be regarded as an employee of a person or partnership that is not a specified employer.

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

**32. (1) Paragraph 122.5(3)(c) of the English version of the Act is amended by replacing the reference to "by reason of paragraph 118(1)(b)" with "because of paragraph (b) of the description of B in subsection 118(1)".**

**(2) Clause 122.5(3)(e)(ii)(B) of the English version of the Act is amended by replacing the reference to "paragraph 118(1)(c)" with "paragraph (c) of the description of B in subsection 118(1)".**

**33. (1) Paragraphs (d) to (k) of the definition "manufacturing or processing" in subsection 125.1(3) of the Act are replaced by the following:**

(d) operating an oil or gas well or extracting petroleum or natural gas from a natural accumulation of petroleum or natural gas,

(e) extracting minerals from a mineral resource,

(f) processing

(i) ore (other than iron ore or tar sands ore) from a mineral resource located in Canada to any stage that is not beyond the prime metal stage or its equivalent,

(ii) iron ore from a mineral resource located in Canada to any stage that is not beyond the pellet stage or its equivalent, or

(iii) tar sands ore from a mineral resource located in Canada to any stage that is not beyond the crude oil stage or its equivalent,

(g) producing industrial minerals,

(h) producing or processing electrical energy or steam, for sale,

(i) processing natural gas as part of the business of selling or distributing gas in the course of operating a public utility,

(j) processing heavy crude oil recovered from a natural reservoir in Canada to a stage that is not beyond the crude oil stage or its equivalent,

(k) Canadian field processing, or

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

**34. (1) The portion of subsection 125.4(3) of the Act after paragraph (b) is replaced by the following:**

the corporation is deemed to have paid on its balance-due day for the year an amount on account of its tax payable under this Part for the year equal to 25% of its qualified labour expenditure for the year in respect of the production.

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

**35. (1) Subparagraphs (c)(ii) to (xii) of the definition "qualified property" in subsection 127(9) of the Act are replaced by the following:**

(ii) farming or fishing,

(iii) logging,

(iv) operating an oil or gas well or extracting petroleum or natural gas from a natural accumulation of petroleum or natural gas,

(v) extracting minerals from a mineral resource,

(vi) processing

(A) ore (other than iron ore or tar sands ore) from a mineral resource to any stage that is not beyond the prime metal stage or its equivalent,

(B) iron ore from a mineral resource to any stage that is not beyond the pellet stage or its equivalent, or

(C) tar sands ore from a mineral resource to any stage that is not beyond the crude oil stage or its equivalent,

(vii) producing industrial minerals,

(viii) processing heavy crude oil recovered from a natural reservoir in Canada to a stage that is not beyond the crude oil stage or its equivalent,

(ix) Canadian field processing,

(x) exploring or drilling for petroleum or natural gas,

(xi) prospecting or exploring for or developing a mineral resource,

(xii) storing grain, or

**(2) The description of A in subsection 127(10.2) of the Act is replaced by the following:**

A is the greater of \$200,000 and either

(a) where the corporation is associated with one or more other corporations in the particular year and the particular year ends in a calendar year, the total of all amounts each of which is the taxable income of the corporation or such an associated corporation for its last taxation year that ended in the preceding calendar year (determined before taking into consideration the specified future tax consequences for that last year), or

(b) where paragraph (a) does not apply, the corporation's taxable income for its immediately preceding taxation year (determined before taking into consideration the specified future tax consequences for that preceding year), and

**(3) Subparagraphs 127(11)(a)(i) and (ii) of the Act are replaced by the following:**

(i) referred to in any of paragraphs (a) to (e) and (g) to (i) of the definition "manufacturing or processing" in subsection 125.1(3),

(ii) that would be referred to in paragraph (f) of that definition if that paragraph were read without reference to the expression "located in Canada",

(iii) that would be referred to in paragraph (j) of that definition if that paragraph were read without reference to the expression "in Canada", or

(iv) that would be referred to in paragraph (k) of that definition if the definition "Canadian field processing" in subsection 248(1) were read without reference to the expression "in Canada"; and

**(4) Subsections (1) and (3) apply to taxation years that begin after 1996.**

**(5) Subsection (2) applies to taxation years that begin after 1995.**

**36. (1) The portion of subsection 127.1(1) of the Act after paragraph (b) and before paragraph (c) is replaced by the following:**

a prescribed form containing prescribed information, the taxpayer is deemed to have paid on the taxpayer's balance-due day for the year an amount on account of the taxpayer's tax payable under this Part for the year equal to the lesser of

**(2) The definition "qualifying corporation" in subsection 127.1(2) of the Act is replaced by the following:**

"qualifying  
corporation"  
« *société*  
*admissible* »

"qualifying corporation" for a particular taxation year that ends in a calendar year means

(a) a corporation that is a Canadian-controlled private corporation throughout the particular year (other than a corporation associated with another corporation in the particular year) the taxable income of which for its immediately preceding taxation year (determined before taking into consideration the specified future tax consequences for that preceding year) does not exceed its business limit for that preceding year, or

(b) a corporation that is a Canadian-controlled private corporation throughout the particular year and associated with another corporation in the particular year, where the total of all amounts each of which is the taxable income of the corporation or such an associated corporation for its last taxation year that ended in the preceding calendar year (determined before taking into consideration the specified future tax consequences for that last year) does not exceed the total of all amounts each of which is the business limit of the corporation or such an associated corporation for that last year;

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

**(4) Subsection (2) applies to taxation years that begin after 1995.**

**37. (1) The definition "approved share" in subsection 127.4(1) of the Act is replaced by the following:**

"approved  
share"  
« *action  
approuvée* »

"approved share" means a share of the capital stock of a prescribed labour-sponsored venture capital corporation;

**(2) The definition "labour-sponsored funds tax credit" in subsection 127.4(1) of the Act is repealed.**

**(3) Subsection 127.4(1) of the Act is amended by adding the following in alphabetical order:**

"original  
acquisition"  
« *acquisition  
initiale* »

"original acquisition" of a share means the first acquisition of the share, except that



(a) where the share is irrevocably subscribed and paid for before its first acquisition, subject to paragraphs (b) and (c), the original acquisition of the share is the first transaction whereby the share is irrevocably subscribed and paid for,

(b) a share is deemed never to have been acquired and never to have been irrevocably subscribed and paid for unless the first registered holder of the share is, subject to paragraph (c), the first person to either acquire or irrevocably subscribe and pay for the share, and

(c) for the purpose of this definition, a broker or dealer in securities acting in that capacity is deemed never to acquire or subscribe and pay for the share and never to be the registered holder of the share;

**(4) Subsections 127.4(2) to (4) of the Act are replaced by the following:**

Deduction of  
labour-  
sponsored funds  
tax credit

(2) Subject to subsections (3) and (4), there may be deducted from the tax otherwise payable by an individual (other than a trust) for a taxation year such amount as the individual claims not exceeding the individual's labour-sponsored funds tax credit limit for the year.

3-year  
cooling-off  
period

(3) Subject to subsection (4), no amount may be deducted under subsection (2) from an individual's tax otherwise payable for a taxation year that ends after 1996 where

(a) an approved share of the capital stock of a corporation is redeemed, acquired or cancelled by the corporation

(i) after March 5, 1996 (otherwise than pursuant to a request in writing made to the corporation before March 6, 1996), and

(ii) in the year or in either of the 2 preceding taxation years; and

(b) the original acquisition of the share was by the individual or by a qualifying trust for the individual in respect of the share.

Exceptions to  
cooling-off  
period

(4) Subsection (3) does not apply to an individual for a taxation year as a consequence of the redemption, acquisition or cancellation of a share where

(a) the individual dies in the year and before the redemption, acquisition or cancellation;

(b) the individual's labour-sponsored funds tax credit in respect of the original acquisition of the share is nil;

(c) tax becomes payable under Part XII.5 because of the redemption, acquisition or cancellation;

(d) an amount determined under regulations made for the purpose of clause 204.81(1)(c)(v)(F) is directed to be remitted to the Receiver General in order to permit the redemption, acquisition or cancellation; or

(e) the individual becomes either disabled and permanently unfit for work or terminally ill in the year

(i) after the last original acquisition in the year of any approved share by the individual or by a qualifying trust for the individual in respect of that share, and

(ii) before the redemption, acquisition or cancellation.

Labour-  
sponsored funds  
tax credit  
limit

(5) For the purpose of subsection (2), an individual's labour-sponsored funds tax credit limit for a taxation year is the lesser of

(a) \$525, and

(b) the amount, if any, by which

(i) the total of all amounts each of which is the individual's labour-sponsored funds tax credit in respect of an original acquisition in the year or in the first 60 days of the following taxation year of an approved share

exceeds

(ii) the portion of the total described in subparagraph (i) that was deducted under subsection (2) in computing the individual's tax payable under this Part for the preceding taxation year.

Labour-  
sponsored funds  
tax credit

(6) For the purposes of subsections (4) and (5), an individual's labour-sponsored funds tax credit in respect of an original acquisition of an approved share is equal to the least of

(a) 15% of the net cost to the individual (or to a qualifying trust for the individual in respect of the share) for the original acquisition of the share by the individual or by the trust,

(b) nil, where the share was issued by a registered labour-sponsored venture capital corporation unless the information return described in paragraph 204.81(6)(c) is filed with the individual's return of income for the taxation year for which a claim is made under subsection (2) in respect of the original acquisition of the share (other than a return of income filed under subsection 70(2), paragraph 104(23)(d) or 128(2)(e) or subsection 150(4)),

(c) nil, where the individual dies after December 5, 1996 and before the original acquisition of the share, and

(d) nil, where a payment in respect of the disposition of the share has been made under section 211.9.

**(5) Subsections (1) and (2) and subsections 127.4(3) to (6) of the Act, as enacted by subsection (4), apply to the 1996 and subsequent taxation years, except that,**

**(a) in its application to the 1996 taxation year, subsection 127.4(5) of the Act, as enacted by subsection (4), shall be read as follows:**

(5) For the purpose of subsection (2), an individual's labour-sponsored funds tax credit limit for a taxation year is the lesser of

(a) the total of

(i) the lesser of \$1,000 and the amount, if any, by which

(A) the total of all amounts each of which is the individual's labour-sponsored funds tax credit in respect of

an original acquisition after 1995 and before March 6, 1996 of an approved share

exceeds

(B) such portion of the amount deducted under subsection (2) in computing the individual's tax payable under this Part for the 1995 taxation year as is attributable to the original acquisition after 1995 of an approved share, and

(ii) the amount, if any, by which \$525 exceeds the amount determined under subparagraph (i) in respect of the individual for the year, and

(b) the amount, if any, by which

(i) the total of all amounts each of which is the individual's labour-sponsored funds tax credit in respect of an original acquisition in the year or in the first 60 days of the following taxation year of an approved share

exceeds

(ii) the portion of the total described in subparagraph (i) that was deducted under subsection (2) in computing the individual's tax payable under this Part for the preceding taxation year.

**and**

**(b) the reference to "15%" in paragraph 127.4(6)(a) of the Act, as enacted by subsection (4), shall be read as "20%" for original acquisitions that occurred before March 6, 1996.**

**(6) Subsection (3) applies after 1995.**

**(7) Subsection 127.4(2) of the Act, as enacted by subsection (4), applies to the 1996 and subsequent taxation years and, for the 1992 to 1995 taxation years, subsection 127.4(2) of the Act shall be read as follows:**

(2) There may be deducted from the tax otherwise payable by an individual (other than a trust) for a taxation year the lesser of \$1,000 and the individual's labour-sponsored funds tax credit (determined as if an approved share in respect of which an individual receives a payment under section 211.9 had never been either acquired nor irrevocably subscribed and paid for).

**38. (1) The portion of subsection 127.41(3) of the Act before paragraph (a) is replaced by the following:**

Deemed payment  
of Part I tax

(3) There is deemed to have been paid on account of the tax payable under this Part by a taxpayer (other than a taxpayer exempt from such tax) for a taxation year on the taxpayer's balance-day for the year, such amount as the taxpayer claims not exceeding the amount, if any, by which

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

**39. (1) Subsection 138(2) of the Act is replaced by the following:**

Insurer's  
income or loss

(2) Notwithstanding any other provision of this Act, where a life insurer resident in Canada carries on an insurance business in Canada and in a country other than Canada in a taxation year

(a) its income or loss for the year from carrying on an insurance business is the amount of its income or loss for the year, computed in accordance with this Act, from the business in Canada; and

(b) no amount shall be included in computing its income for the year in respect of its taxable capital gains and allowable capital losses from dispositions of property (other than property disposed of in a taxation year in which it was designated insurance property) of the insurer used or held by it in the course of carrying on an insurance business.

**(2) Subparagraphs 138(3)(a)(i) and (ii) of the Act are replaced by the following:**

(i) any amount that the insurer claims as a policy reserve for the year in respect of its life insurance policies, not exceeding the total of amounts that the insurer is allowed by regulation to deduct in respect of the policies,

(ii) any amount that the insurer claims as a reserve in respect of claims that were received by the insurer before the end of the year under its life insurance policies and that are unpaid at the end of the year, not exceeding the total of amounts that the insurer is allowed by regulation to deduct in respect of the policies,

(ii.1) the amount included under paragraph (4)(b) in computing the insurer's income for the taxation year preceding the year,

**(3) Subsection 138(4) of the Act is replaced by the following:**

Amounts  
included in  
computing  
income

(4) In computing a life insurer's income for a taxation year from carrying on its life insurance business in Canada, there shall be included

(a) each amount deducted under subparagraph (3)(a)(i), (ii) or (iv) in computing the insurer's income for the preceding taxation year;

(b) the amount prescribed in respect of the insurer for the year in respect of its life insurance policies; and

(c) the total of all amounts received by the insurer in the year in respect of the repayment of policy loans or in respect of interest on policy loans.

Life insurance  
policy

(4.01) For the purposes of subsections (3) and (4), a life insurance policy includes a benefit under a group life insurance policy or a group annuity contract.

**(4) The portion of subsection 138(4.4) of the Act after paragraph (d) and before paragraph (e) is replaced by the following:**

there shall be included in computing the insurer's income for the year, where the land, building or interest was designated insurance property of the insurer for the year, or property used or held by it in the year in the course of carrying on an insurance business in Canada, the total of all amounts each of which is the amount prescribed in respect of the insurer's cost or capital cost, as the case may be, of the land, building or interest for the period, and the amount prescribed shall, at the end of the period, be included in computing

**(5) The portion of subsection 138(4.5) of the Act before paragraph (a) is replaced by the following:**

Application

(4.5) Where a life insurer transfers or lends property, directly or indirectly in any manner whatever, to a person or partnership (in this subsection referred to as the "transferee") that is affiliated with the insurer or a person or partnership that does not deal at arm's length with the insurer and

**(6) Paragraph 138(4.5)(d) of the Act is replaced by the following:**

(d) subsection (4.4) shall apply to include an amount in the insurer's income for the year on the assumption that the property was owned by the insurer for the period, was property described in paragraph (4.4)(a), (b), (c) or (d) of the insurer and was used or held by it in the year in the course of carrying on an insurance business in Canada, and

**(7) Paragraph 138(5)(b) of the Act is replaced by the following:**

(b) in the case of a non-resident insurer or a life insurer resident in Canada that carries on any of its insurance business in a country other than Canada, no deduction may be made under paragraph 20(1)(c) or (d) in computing its income for a taxation year from carrying on an insurance business in Canada, except in respect of

(i) interest on borrowed money used to acquire designated insurance property for the year in respect of the business,

(ii) interest on amounts payable for designated insurance property for the year in respect of the business,

(iii) interest on deposits received or other amounts held by the insurer that arose in connection with life insurance policies in Canada or with policies insuring Canadian risks, or

(iv) other interest that does not exceed a prescribed amount.

**(8) Subsection 138(7) of the Act is repealed.**

**(9) Subsections 138(9), (10) and (11.1) of the Act are replaced by the following:**

Computation of  
income

(9) Where in a taxation year an insurer (other than an insurer resident in Canada that does not carry on a life insurance business) carries on an insurance business in Canada and in a country other than Canada, there shall be included in computing its income for the year from carrying on its insurance businesses in Canada the total of

(a) its gross investment revenue for the year from its designated insurance property for the year, and

(b) the amount prescribed in respect of the insurer for the year.

Application of  
financial  
institution  
rules

(10) Notwithstanding sections 142.3, 142.4 and 142.5, where in a taxation year an insurer (other than an insurer resident in Canada that does not carry on a life insurance business) carries on an insurance business in Canada and in a country other than Canada, in computing its income for the year from carrying on an insurance business in Canada,

(a) sections 142.3 and 142.5 apply only in respect of property that is designated insurance property for the year in respect of the business; and

(b) section 142.4 applies only in respect of the disposition of property that, for the taxation year in which the insurer disposed of it, was designated insurance property in respect of the business.

Identical  
properties

(11.1) For the purpose of section 47, any property of a life insurance corporation that would, but for this subsection, be identical to any other property of the corporation is deemed not to be identical to the other property unless both properties are

(a) designated insurance property of the insurer in respect of a life insurance business carried on in Canada; or

(b) designated insurance property of the insurer in respect of an insurance business in Canada other than a life insurance business.

**(10) Subsections 138(11.3) and (11.31) of the Act are replaced by the following:**

Deemed  
disposition

(11.3) Subject to subsection (11.31), where a property of a life insurer resident in Canada that carries on an insurance business in Canada and in a country other than Canada or of a non-resident insurer is

(a) designated insurance property of the insurer for a taxation year, was owned by the insurer at the end of the preceding taxation year and was not designated insurance property of the insurer for that preceding year, or



(b) not designated insurance property for a taxation year, was owned by the insurer at the end of the preceding taxation year and was designated insurance property of the insurer for that preceding year,

the insurer is deemed to have disposed of the property at the beginning of the year for proceeds of disposition equal to its fair market value at that time and to have immediately thereafter reacquired the property at a cost equal to that fair market value.

Exclusion from  
deemed  
disposition

(11.31) Subsection (11.3) does not apply

(a) to deem a disposition in a taxation year of a property of an insurer where subsection 142.5(2) deemed the insurer to have disposed of the property in its preceding taxation year; nor

(b) for the purposes of paragraph 20(1)(l), the description of A and paragraph (b) of the description of F in the definition "undepreciated capital cost" in subsection 13(21) and the definition "designated insurance property" in subsection (12).

**(11) Paragraph 138(11.5)(i) of the Act is replaced by the following:**

(i) for the purpose of determining the amount of gross investment revenue required by subsection (9) to be included in computing the transferor's income for the particular taxation year referred to in paragraph (h) and its gains and losses from its designated insurance property for its subsequent taxation years, the transferor is deemed to have transferred the business referred to in paragraph (a), the property referred to in paragraph (b) and the obligations referred to in paragraph (c) to the transferee on the last day of the particular year,

**(12) Subsection 138(11.5) of the Act is amended by adding the following after paragraph (j):**

(j.1) for the purpose of determining the income of the transferor and the transferee for their taxation years following their taxation years referred to in paragraph (h), amounts included under paragraphs (4)(b) and 12(1)(e.1) in computing the transferor's income for its taxation year referred to in paragraph (h) in respect of the insurance policies of the business referred to in paragraph (a) are deemed to have been included in computing the income of the transferee, and not of the transferor, for their taxation years referred to in paragraph (h),

**(13) Paragraph 138(11.91)(d) of the Act is replaced by the following:**

(d) for the purposes of paragraphs 12(1)(d) and (e), paragraph (4)(a), subsection (9) and the definition "designated insurance property" in subsection (12), the insurer is deemed to have carried on the business in Canada in that preceding year and to have claimed the maximum amounts to which it would have been entitled under paragraphs 20(1)(1) and (1.1) and 20(7)(c) and subparagraphs (3)(a)(i), (ii) and (iv) for that year,

(d.1) for the purposes of subsection 20(22) and subparagraph (3)(a)(ii.1),

(i) the insurer is deemed to have carried on the business referred to in paragraph (a) in Canada in the preceding taxation year referred to in paragraph (c), and

(ii) the amounts, if any, that would have been prescribed in respect of the insurer for the purposes of paragraphs (4)(b) and 12(1)(e.1) for that preceding year in respect of the insurance policies of that business are deemed to have been included in computing its income for that year,

**(14) The portion of paragraph 138(11.92)(c) of the Act before subparagraph (i) is replaced by the following:**

(c) for the purpose of determining the amount of the gross investment revenue required to be included in computing the income of the vendor and the purchaser under subsection (9) and the amount of the gains and losses of the vendor and the purchaser from designated insurance property for the year

**(15) Paragraph 138(11.94)(b) of the Act is replaced by the following:**

(b) the transferor has, at that time or within 60 days thereafter, in the year transferred all or substantially all of the property used or held by it in the year in the course of carrying on that insurance business in Canada to a corporation resident in Canada (in this subsection referred to as the "transferee") that is a subsidiary wholly-owned corporation of the transferor which, immediately after that time, began to carry on that insurance business in Canada and the consideration for the transfer includes shares of the capital stock of the transferee,

**(16) The definitions "accumulated 1968 deficit", "property used by it in the year in, or held by it in the year in the course of", and "relevant authority" in subsection 138(12) of the Act are repealed.**

(17) Subsection 138(12) of the Act is amended by adding the following in alphabetical order:

"designated  
insurance  
property"  
« *bien  
d'assurance  
désigné* »

"designated insurance property" for a taxation year of an insurer (other than an insurer resident in Canada that at no time in the year carried on a life insurance business) that, at any time in the year, carried on an insurance business in Canada and in a country other than Canada, means property determined in accordance with prescribed rules except that, in its application to any taxation year, "designated insurance property" for the 1995 or a preceding taxation year means property that was, under this subsection as it read in its application to that year, property used by it in the year in, or held by it in the year in the course of carrying on an insurance business in Canada;

(18) Subsections (1) to (10), (12), (13) and (15) to (17) apply to the 1996 and subsequent taxation years.

(19) Subsection (11) applies to the transfer by an insurer of an insurance business in its 1996 or a subsequent taxation year.

(20) Subsection (14) applies to the disposition by an insurer of an insurance business or a line of business of an insurance business in its 1996 or a subsequent taxation year.

40. (1) Sections 142 and 142.1 of the Act are repealed.

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

41. (1) The portion of paragraph (b) of the definition "unused RRSP deduction room" in subsection 146(1) of the Act before subparagraph (i) is replaced by the following:

(b) for taxation years that end after 1990,

(2) Paragraph (b) of the definition "unused RRSP deduction room" in subsection 146(1) of the Act is amended by striking out the word "and" at the end of subparagraph (i) and by repealing subparagraph (ii).

(3) Paragraph 146(2)(b.4) of the Act is replaced by the following:

(b.4) the plan does not provide for maturity after the end of the year in which the annuitant attains 69 years of age;

**(4) Section 146 of the Act is amended by adding the following after subsection (13.1):**

Maturity after  
age 69

(13.2) For the purpose of subsection (12), where a retirement savings plan accepted for registration before 1997 does not mature by the end of the particular year in which the annuitant under the plan attains 69 years of age,

(a) the plan is deemed to have been amended immediately after the particular year; and

(b) the plan as amended is deemed not to comply with the requirements of this section for its acceptance by the Minister for registration for the purposes of this Act.

Notice

(13.3) Where a retirement savings plan accepted for registration before 1997 does not prevent maturity after the particular year in which the annuitant under the plan attains 69 years of age, the issuer of the plan shall, before July of the particular year, notify the annuitant in writing that, pursuant to subsections (12) and (13.2), the plan will cease to be a registered retirement savings plan if it does not mature by the end of the particular year, except that no such notification is required where, before that month,

(a) the plan has matured; or

(b) arrangements have been made for the plan to mature, or for the property under the plan to be transferred or otherwise paid out of the plan, by the end of the particular year.

**(5) Subsections (3) and (4) apply after 1996, except that**

**(a) subsection (3) does not apply to a retirement savings plan accepted for registration before 1997;**

**(b) subsections (3) and (4) do not apply to a retirement savings plan where the annuitant under the plan attained 70 years of age before 1997;**

**(c) in applying paragraph 146(2)(b.4) of the Act, as enacted by subsection (3), and subsections 146(13.2) and (13.3) of the Act, as enacted by subsection (4), to a retirement savings plan where the annuitant under the plan attained 69 years of age in 1996,**

the references in those provisions to "69 years of age" shall be read as "70 years of age";

(d) subsection (4) does not apply to a retirement savings plan where an annuity contract was issued before March 6, 1996 under, pursuant to or as the plan to provide the retirement income under the plan and, under the terms and conditions of the contract as they read immediately before that day,

(i) the day on which annuity payments are to begin under the plan is fixed and determined and is after the year in which the annuitant attains

(A) 69 years of age, where the annuitant had not attained that age before 1997, or

(B) 70 years of age, where the annuitant attained 69 years of age in 1996, and

(ii) the amount and timing of each annuity payment are fixed and determined; and

(e) subsection (4) does not apply to a retirement savings plan that is part of a life insurance policy that was issued before March 6, 1996 and that has a life insurance component that is not a retirement savings plan where, under the terms and conditions of the policy as they read immediately before that day,

(i) the amount of each premium, if any, subsequently payable in respect of the life insurance component of the policy, and a date by which each such premium is to be paid, are fixed and determined,

(ii) the amount payable under the policy because of the death of the annuitant (determined without reference to any amount payable as, on account of, in lieu of payment of or in satisfaction of, a policy dividend or related interest) is fixed and determined, and

(iii) insurance on the life of the annuitant is provided under the policy for a period of time after the year in which the annuitant attains

(A) 69 years of age, where the annuitant had not attained that age before 1997, or

(B) 70 years of age, where the annuitant attained 69 years of age in 1996.

(6) Where, because of paragraph (5)(e), subsection (4) does not apply to a retirement savings plan that is part of a life insurance policy, any part of a premium paid under the policy after March 5,

1996 that was not fixed and determined under the terms and conditions of the policy as they read at the end of that day is deemed, for the purposes of subsections 146(5), (5.1) and (8.2) of the Act, not to have been paid under the policy.

42. (1) The definition "qualifying educational program" in subsection 146.1(1) of the Act is replaced by the following:

"qualifying  
educational  
program"  
« *programme de  
formation  
admissible* »

"qualifying educational program" has the meaning that would be assigned by the definition of that expression in subsection 118.6(1) if that definition were read without reference to paragraph (a);

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

(k) the plan provides that the total of all payments made into the plan in respect of a beneficiary for a year shall not exceed \$2,000;

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

(4) Subsection (2) applies to the 1996 and subsequent taxation years, except in respect of plans entered into before February 21, 1990.

43. (1) Subsection 147(1) of the Act is amended by adding the following in alphabetical order:

"licensed  
annuities  
provider"  
« *fournisseur  
de rentes  
autorisé* »

"licensed annuities provider" means a person licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada an annuities business;

(2) Section 147 of the Act is amended by adding the following after subsection (1):

Participating  
employer

(1.1) An employer is considered to participate in a profit sharing plan where the employer makes or has made payments under the plan to a trustee in trust for the benefit of employees or former employees of the employer.

**(3) Paragraph 147(2)(k) of the Act is replaced by the following:**

(k) the plan provides that, in respect of each beneficiary under the plan who has been employed by an employer who participates in the plan, all amounts vested under the plan in the beneficiary become payable

(i) to the beneficiary, or

(ii) in the event of the beneficiary's death, to another person designated by the beneficiary or to the beneficiary's estate, not later than the earlier of

(iii) the end of the year in which the beneficiary attains 69 years of age, and

(iv) 90 days after the earliest of

(A) the death of the beneficiary,

(B) the day on which the beneficiary ceases to be employed by an employer who participates in the plan where, at the time of ceasing to be so employed, the beneficiary is not employed by another employer who participates in the plan, and

(C) the termination or winding-up of the plan,

except that the plan may provide that, on election by the beneficiary, all or any part of the amounts payable to the beneficiary may be paid

(v) in equal instalments payable not less frequently than annually over a period not exceeding 10 years from the day on which the amount became payable, or

(vi) by a trustee under the plan to a licensed annuities provider to purchase for the beneficiary an annuity where

(A) payment of the annuity is to begin not later than the end of the year in which the beneficiary attains 69 years of age, and

(B) the guaranteed term, if any, of the annuity does not exceed 15 years;

**(4) Subparagraph 147(2)(k.1)(ii) of the Act is replaced by the following:**

(ii) an amount referred to in paragraph (10)(b),

(ii.1) an amount paid pursuant to or under the plan by a trustee under the plan to a licensed annuities provider to purchase for a beneficiary under the plan an annuity to which subparagraph (k)(vi) applies,

**(5) Subsection 147(10) of the Act is replaced by the following:**

Amounts  
received  
taxable

(10) There shall be included in computing the income of a beneficiary under a deferred profit sharing plan for a taxation year the amount, if any, by which

(a) the total of all amounts received by the beneficiary in the year from a trustee under the plan (other than as a result of acquiring an annuity described in subparagraph (2)(k)(vi) under which the beneficiary is the annuitant)

exceeds

(b) the total of all amounts each of which is an amount determined for the year under subsection (10.1), (11) or (12) in relation to the plan and in respect of the beneficiary.

**(6) Section 147 of the Act is amended by adding the following after subsection (10.5):**

Commencement of  
annuity after  
age 69

(10.6) Where an amount is paid before 1997 pursuant to or under a deferred profit sharing plan to purchase for a beneficiary under the plan an annuity to which subparagraph (2)(k)(vi) applies, and payment of the annuity has not begun by the end of the particular year in which the beneficiary attains 69 years of age,

(a) the beneficiary is deemed to have disposed of the annuity immediately after the particular year and to have received as proceeds of the disposition an amount equal to the fair market value of the annuity at the end of the particular year;



(b) the beneficiary is deemed to have acquired immediately after the particular year an interest in the annuity as a separate and newly issued annuity contract at a cost equal to the amount referred to in paragraph (a); and

(c) the issue and acquisition of the contract referred to in paragraph (b) are deemed not to be pursuant to or under a deferred profit sharing plan.

(7) Subsections (1) and (4) apply after 1991.

(8) Subsection (2) applies after 1988.

(9) Subsections (3) and (6) apply after 1996, except that

(a) where a beneficiary under a profit sharing plan attained 70 years of age before 1997,

(i) in applying subparagraph 147(2)(k)(iii) of the Act, as enacted by subsection (3), in respect of the beneficiary, that paragraph shall be read as follows:

(iii) 90 days after the day on which the beneficiary attains 71 years of age, and

(ii) in applying clause 147(2)(k)(vi)(A) of the Act, as enacted by subsection (3), in respect of the beneficiary, the reference in that clause to "the end of the year in which the beneficiary attains 69 years of age" shall be read as "the day on which the beneficiary attains 71 years of age", and

(iii) subsection (6) does not apply to an annuity purchased for the beneficiary;

(b) where a beneficiary under a profit sharing plan attained 69 years of age in 1996, in applying

(i) subparagraph 147(2)(k)(iii) and clause 147(2)(k)(vi)(A) of the Act, as enacted by subsection (3), in respect of the beneficiary, and

(ii) subsection 147(10.6) of the Act, as enacted by subsection (6), to an annuity purchased for the beneficiary,

the references in those provisions to "69 years of age" shall be read as "70 years of age"; and

(c) subsection (6) does not apply to an annuity purchased before March 6, 1996 for a beneficiary under a deferred profit sharing plan where, under the terms and conditions of the annuity contract as they read immediately before that day,

(i) the day on which annuity payments are to begin under the contract is fixed and determined and is after the year in which the beneficiary attains

(A) 69 years of age, where the beneficiary had not attained that age before 1997, or

(B) 70 years of age, where the beneficiary attained 69 years of age in 1996, and

(ii) the amount and timing of each annuity payment are fixed and determined.

(10) Subsection (5) applies to the 1992 and subsequent taxation years.

44. (1) The portion of the definition "money purchase limit" in subsection 147.1(1) of the Act after paragraph (f) is replaced by the following:

(g) for years after 1995 and before 2003, \$13,500,

(h) for 2003, \$14,500,

(i) for 2004, \$15,500, and

(j) for each year after 2004, the greater of

(i) the product of

(A) \$15,500, and

(B) the quotient obtained when the average wage for the year is divided by the average wage for 2004,

rounded to the nearest multiple of \$10, or, if that product is equidistant from 2 such consecutive multiples, to the higher thereof, and

(ii) the money purchase limit for the preceding year;

(2) Subsection (1) applies after 1996.

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

Annuity  
contract  
commencing  
after age 69

(15) Where, under circumstances in which paragraph 254(a) applies, an individual receives before 1997 an interest in an annuity contract in full or partial satisfaction of the individual's entitlement to benefits under a registered pension plan, and payment of the annuity has not begun by the end of the particular year in which the individual attains 69 years of age,

(a) that interest is deemed not to exist after the particular year;

(b) the individual is deemed to have received immediately after the particular year the payment of a single amount from the plan equal to the fair market value of the interest at the end of the particular year;

(c) the individual is deemed to have acquired immediately after the particular year an interest in the annuity contract as a separate and newly issued annuity contract at a cost equal to the amount referred to in paragraph (b); and

(d) the issue and acquisition of the newly issued annuity contract are deemed not to be pursuant to or under a registered pension plan.

(2) Subsection (1) applies after 1996, except that

(a) it does not apply to an individual who attained 70 years of age before 1997;

(b) in applying subsection 147.3(15) of the Act, as enacted by subsection (1), to an individual who attained 69 years of age in 1996, the reference in that provision to "69 years of age" shall be read as a reference to "70 years of age"; and

(c) subsection (1) does not apply to an annuity contract where an individual received an interest in the contract before March 6, 1996 and, under the terms and conditions of the contract as they read immediately before that day,

(i) the day on which the annuity payments are to begin under the contract is fixed and determined and is after the year in which the individual attains

(A) 69 years of age, where the individual had not attained that age before 1997, or

(B) 70 years of age, where the individual attained 69 years of age in 1996, and

(ii) the amount and timing of each annuity payment are fixed and determined.

**46. The definition "relevant authority" in subsection 148(9) of the Act is repealed.**

**47. (1) Paragraph 149(1)(t) of the Act is replaced by the following:**

Farmers' and  
fishermen's  
insurer

(t) an insurer that, throughout the period, is not engaged in any business other than insurance if, in the opinion of the Minister, on the advice of the Superintendent of Financial Institutions or of the superintendent of insurance of the province under the laws of which the insurer is incorporated, not less than 20% of the total of the gross premium income (net of reinsurance ceded) earned in the period by the insurer and, where the insurer is not a prescribed insurer, by all other insurers that

(i) are specified shareholders of the insurer,

(ii) are related to the insurer, or

(iii) where the insurer is a mutual corporation, are part of a group that controls, directly or indirectly in any manner whatever, or are controlled, directly or indirectly in any manner whatever by, the insurer,

is in respect of insurance of property used in farming or fishing or residences of farmers or fishermen;

**(2) Subsection 149(4.1) of the Act is replaced by the following:**

Income exempt  
under 149(1)(t)

(4.1) Subject to subsection (4.2), subsection (1) applies to an insurer described in paragraph (1)(t) only in respect of the part of its taxable income for a taxation year determined by the formula

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

where

A is its taxable income for the year;

B is

(a)  $1/2$ , where less than 25% of the total of the gross premium income (net of reinsurance ceded) earned in the year by it and, where it is not a prescribed insurer for the purpose of paragraph (1)(t), by all other insurers that

(i) are specified shareholders of the insurer,

(ii) are related to the insurer, or

(iii) where the insurer is a mutual corporation, are part of a group that controls, directly or indirectly in any manner whatever, or are controlled, directly or indirectly in any manner whatever by, the insurer,

is in respect of insurance of property used in farming or fishing or residences of farmers or fishermen; and

(b) 1 in any other case;

C is the part of the gross premium income (net of reinsurance ceded) earned by it in the year that, in the opinion of the Minister, on the advice of the Superintendent of Financial Institutions or of the superintendent of insurance of the province under the laws of which it is incorporated, is in respect of insurance of property used in farming or fishing or residences of farmers or fishermen; and

D is the gross premium income (net of reinsurance ceded) earned by it in the year.

**(3) The portion of subsection 149(4.2) of the Act after paragraph (c) is replaced by the following:**

<?[ip0n,0n]>is in respect of insurance of property used in farming or fishing or residences of farmers or fishermen.

**(4) Subsections (1) to (3) apply to the 1996 and subsequent taxation years.**

**48. (1) The portion of the definition "net tax owing" in subsection 156.1(1) of the Act after the description of E is repealed.**

**(2) Section 156.1 of the Act is amended by adding the following after subsection (1):**

Values of A and  
B in "net tax  
owing"

(1.1) For the purposes of determining the values of A and B in the definition "net tax owing" in subsection (1), income taxes payable by an individual for a taxation year are determined

(a) before taking into consideration the specified future tax consequences for the year; and

(b) after deducting all tax credits to which the individual is entitled for the year relating to those taxes (other than tax credits that become payable to the individual after the individual's balance-due day for the year, prescribed tax credits and the amount deemed to have been paid because of the application of subsection 120(2)).

Value of D in  
"net tax owing"

(1.2) For the purpose of determining the value of D in the definition "net tax owing" in subsection (1), the amount deemed by subsection 120(2) to have been paid on account of an individual's tax under this Part for a taxation year is determined before taking into consideration the specified future tax consequences for the year.

**(3) Subsections (1) and (2) apply to amounts that become payable after 1995.**

**49. (1) Subparagraph 157(1)(b)(i) of the Act is amended by striking out the word "and" at the end of clause (A) and by replacing clause (B) with the following:**

(B) the corporation is, throughout the year, a Canadian-controlled private corporation,

(C) a particular calendar year immediately preceded the calendar year in which the year ends, and

(D) either

(I) the corporation is not associated with another corporation in the taxation year and its taxable income for its immediately preceding taxation year (determined before taking into consideration the specified future tax consequences for that preceding year) does not exceed its business limit for that preceding year, or

(II) where the corporation is associated with another corporation in the taxation year, the total of all amounts each of which is the taxable income of the corporation or such an associated corporation for its last taxation year that ended in the particular calendar year (determined before taking into consideration the specified future tax consequences for that last year) does not exceed the total of all amounts each of which is the business limit of the corporation or such an associated corporation for that last year, or

**(2) Paragraphs 157(2)(c) and (d) of the Act are replaced by the following:**

(c) its taxable income (determined before taking into consideration the specified future tax consequences for the year or that preceding year, as the case may be) was not more than \$10,000, and

(d) no tax was payable by it under any of Parts I.3, VI and VI.1 (determined before taking into consideration the specified future tax consequences for the year or that preceding year, as the case may be),

**(3) Paragraph 157(2.1)(a) of the Act is replaced by the following:**

(a) the total of the taxes payable under this Part and Parts I.3, VI and VI.1 by a corporation for a taxation year (determined before taking into consideration the specified future tax consequences for the year), or

**(4) Subsections (1) to (3) apply to amounts that become payable after 1995, except that, for taxation years that end before 1998, subclause 157(1)(b)(i)(D)(II) of the Act, as enacted by subsection (1), shall be read as follows:**

(II) where the corporation is associated with another corporation in the year,

1. the total of the taxable income of the corporation for its immediately preceding taxation year (determined before taking into consideration the specified future tax consequences for that preceding year) and the total of the taxable incomes of all such associated corporations for their taxation years that ended in the particular calendar year (determined before taking into consideration the specified future tax consequences for those years)

does not exceed

2. the total of the business limit of the corporation for its immediately preceding taxation year and the total of the business limits of all such associated corporations for their taxation years that ended in the particular calendar year, or

**50. (1) The portion of subsection 161(1) of the Act before paragraph (a) is replaced by the following:**

General

**161. (1) Where at any time after a taxpayer's balance-due day for a taxation year**

**(2) Subsection 161(2.2) of the Act is replaced by the following:**

Contra interest

(2.2) Notwithstanding subsections (1) and (2), the total amount of interest payable by a taxpayer (other than a testamentary trust) under those subsections, for the period that begins on the first day of the taxation year for which a part or instalment of tax is payable and ends on the taxpayer's balance-due day for the year, in respect of the taxpayer's tax or instalments of tax payable for the year shall not exceed the amount, if any, by which

(a) the total amount of interest that would be payable for the period by the taxpayer under subsections (1) and (2) in respect of the taxpayer's tax and instalments of tax payable for the year if no amount were paid on account of the tax or instalments

exceeds

(b) the amount of interest that would be payable under subsection 164(3) to the taxpayer in respect of the period on the amount that would be refunded to the taxpayer in respect of the year or applied to another liability if

(i) no tax were payable by the taxpayer for the year,

(ii) no amount had been remitted under section 153 to the Receiver General on account of the taxpayer's tax for the year,

(iii) the rate of interest prescribed for the purpose of subsection (1) were prescribed for the purpose of subsection 164(3), and

(iv) the latest of the days described in paragraphs 164(3)(a), (b) and (c) were the first day of the year.

**(3) Paragraph 161(4)(a) of the Act is replaced by the following:**

(a) the amount, if any, by which

(i) the tax payable under this Part by the individual for the year, determined before taking into consideration the specified future tax consequences for the year,

exceeds

(ii) the amount deemed by subsection 120(2) to have been paid on account of the individual's tax under this Part for the year, determined before taking into consideration the specified future tax consequences for the year,



**(4) Paragraph 161(4.01)(a) of the Act is replaced by the following:**

(a) the amount, if any, by which

(i) the tax payable under this Part by the individual for the year, determined before taking into consideration the specified future tax consequences for the year,

exceeds

(ii) the amount deemed by subsection 120(2) to have been paid on account of the individual's tax under this Part for the year, determined before taking into consideration the specified future tax consequences for the year,

**(5) Paragraph 161(4.1)(a) of the Act is replaced by the following:**

(a) the total of the taxes payable under this Part and Parts I.3, VI and VI.1 by the corporation for the year, determined before taking into consideration the specified future tax consequences for the year,

**(6) Section 161 of the Act is amended by adding the following after subsection (6.1):**

Flow-through  
share  
renunciations

(6.2) Where the tax payable under this Part by a taxpayer for a taxation year is more than it otherwise would be because of a consequence for the year described in paragraph (b) of the definition "specified future tax consequence" in subsection 248(1) in respect of an amount purported to be renounced in a calendar year, for the purposes of the provisions of this Act (other than this subsection) relating to interest payable under this Act, an amount equal to the additional tax payable is deemed

(a) to have been paid on the taxpayer's balance-due day for the taxation year on account of the taxpayer's tax payable under this Part for the year; and

(b) to have been refunded on April 30 of the following calendar year to the taxpayer on account of the taxpayer's tax payable under this Part for the taxation year.

**(7) Subparagraphs 161(7)(a)(ix) and (x) of the English version of the Act are replaced by the following:**

(ix) any amount deducted under subsection 181.1(4) in respect of any unused surtax credit (within the meaning assigned by subsection 181.1(6)) of the taxpayer for a subsequent taxation year, or

(x) any amount deducted under subsection 190.1(3) in respect of any unused Part I tax credit (within the meaning assigned by subsection 190.1(5)) of the taxpayer for a subsequent taxation year, and

**(8) Paragraph 161(11)(b) of the Act is replaced by the following:**

(b) in the case of a penalty payable for a taxation year because of section 163.1, from the taxpayer's balance-due day for the year to the day of payment of the penalty;

**(9) Subsections (1) to (6) and (8) apply to the 1996 and subsequent taxation years.**

**(10) Subparagraph 161(7)(a)(ix) of the Act, as enacted by subsection (7), applies to the 1992 and subsequent taxation years.**

**(11) Subparagraph 161(7)(a)(x) of the Act, as enacted by subsection (7), applies to the 1991 and subsequent taxation years.**

**51. (1) Subsections 162(7) and (7.1) of the Act are replaced by the following:**

Failure to  
comply

(7) Every person (other than a registered charity) or partnership who fails

(a) to file an information return as and when required by this Act or the regulations, or

(b) to comply with a duty or obligation imposed by this Act or the regulations

is liable in respect of each such failure, except where another provision of this Act (other than subsection (10) or (10.1) or 163(2.22)) sets out a penalty for the failure, to a penalty equal to the greater of \$100 and the product obtained when \$25 is multiplied by the number of days, not exceeding 100, during which the failure continues.

Failure to make  
partnership  
information  
return

(7.1) Where a member of a partnership fails to file an information return as a member of the partnership for a fiscal period of the partnership as and when required by this Act or the regulations and subsection (10) does not set out a penalty for the failure, the partnership is liable to a penalty equal to the greater of \$100 and the product obtained when \$25 is multiplied by the number of days, not exceeding 100, during which the failure continues.

**(2) Subsection 162(8.1) of the Act is replaced by the following:**

Where  
partnership  
liable to  
penalty

(8.1) Where a partnership is liable to a penalty under subsection (7), (7.1), (8), (10) or (10.1), sections 152, 158 to 160.1, 161 and 164 to 167 and Division J apply, with any modifications that the circumstances require, to the penalty as if the partnership were a corporation.

**(3) Subsection 162(10) of the Act is replaced by the following:**

Failure to  
furnish  
foreign-based  
information

(10) Every person or partnership who,

(a) knowingly or under circumstances amounting to gross negligence, fails to file an information return as and when required by any of sections 233.1 to 233.4, or

(b) where paragraph (a) does not apply, knowingly or under circumstances amounting to gross negligence, fails to comply with a demand under section 233 to file a return

is liable to a penalty equal to the amount determined by the formula

$$(\$500 \times A \times B) - C$$

where

A is

(c) where paragraph (a) applies, the lesser of 24 and the number of months, beginning with the month in which the return was required to be filed, during any part of which the return has not been filed, and

(d) where paragraph (b) applies, the lesser of 24 and the number of months, beginning with the month in which the demand was served, during any part of which the return has not been filed,

B is

(e) where the person or partnership has failed to comply with a demand under section 233 to file a return, 2, and

(f) in any other case, 1, and

C is the penalty to which the person or partnership is liable under subsection (7) in respect of the return.

Additional  
penalty

(10.1) Where

(a) a person or partnership is liable to a penalty under subsection (10) for the failure to file a return (other than an information return required to be filed under section 233.1),

(b) if paragraph (10)(a) applies, the number of months, beginning with the month in which the return was required to be filed, during any part of which the return has not been filed exceeds 24, and

(c) if paragraph (10)(b) applies, the number of months, beginning with the month in which the demand referred to in that paragraph was served, during any part of which the return has not been filed exceeds 24,

the person or partnership is liable, in addition to the penalty determined under subsection (10), to a penalty equal to the amount determined by the formula

A - B

where

A is

(d) where the return is required to be filed under section 233.2, 5% of the total of all amounts each of which is the fair market value of property transferred or loaned (determined as of the time of the transfer or loan) because of which there would, if no other transfer or loan were taken into account, be an obligation to file the return,

(e) where the return is required to be filed under section 233.3 for a taxation year or fiscal period, 5% of the greatest of all amounts each of which is the total of the cost amounts to the person or partnership at any time in the year or period of a specified foreign property (as defined by subsection 233.3(1)) of the person or partnership, and

(f) where the return is required to be filed under section 233.4 for a taxation year or fiscal period in respect of a foreign affiliate of the person or partnership, 5% of the greatest of all amounts each of which is the total of the cost amounts to the person or partnership at any time in the year or period of a property of the person or partnership that is a share of the capital stock or indebtedness of the affiliate, and

B is the total of the penalties to which the person or partnership is liable under subsections (7) and (10) in respect of the return.

Shares or debt  
owned by  
controlled  
foreign  
affiliate

(10.2) For the purpose of paragraph (f) of the description of A in subsection (10.1),

(a) shares or indebtedness owned by a controlled foreign affiliate of a person or partnership are deemed to be owned by the person or partnership; and

(b) the cost amount at any time of such shares or indebtedness to the person or partnership is deemed to be equal to 20% of the cost amount at that time to the controlled foreign affiliate of the shares or indebtedness.

Application to  
partnerships

(10.3) For the purposes of paragraph (f) of the description of A in subsection (10.1) and subsection (10.2), in determining whether a non-resident corporation or trust is a foreign affiliate or a controlled foreign affiliate of a partnership,

(a) the definitions "direct equity percentage" and "equity percentage" in subsection 95(4) shall be read as if a partnership were a person; and

(b) the definitions "controlled foreign affiliate" and "foreign affiliate" in subsection 95(1) shall be read as if a partnership were a taxpayer resident in Canada.

Application to  
non-resident  
trusts

(10.4) For the purposes of this subsection, paragraph (f) of the description of A in subsection (10.1) and subsection (10.2),

(a) a non-resident trust is deemed to be a controlled foreign affiliate of each beneficiary of which the trust is a controlled foreign affiliate for the purpose of section 233.4;

(b) the trust is deemed to be a non-resident corporation having a capital stock of a single class divided into 100 issued shares;

(c) each beneficiary under the trust is deemed to own at any time the number of the issued shares of the corporation that is equal to the proportion of 100 that

(i) the fair market value at that time of the beneficiary's beneficial interest in the trust

is of

(ii) the fair market value at that time of all beneficial interests in the trust; and

(d) the cost amount to a beneficiary at any time of a share of the corporation is deemed to be equal to the amount determined by the formula

$A/B$

where

A is the fair market value at that time of the beneficiary's beneficial interest in the trust, and

B is the number of shares deemed under paragraph (c) to be owned at that time by the beneficiary in respect of the corporation.

**(4) Subsection 162(11) of the Act is replaced by the following:**

Effect of  
subsequent  
events

(11) For the purpose of computing a penalty under subsection (1) or (2) in respect of a person's return of income for a taxation year, the person's tax payable under this Part for the year shall be determined before taking into consideration the specified future tax consequences for the year.

**(5) Subsections (1) and (2) apply to returns required to be filed on or before a day that is after 1997 and to duties and obligations first imposed after 1997.**

**(6) Subsection (3) applies to returns required to be filed on or before a day that is after April 29, 1998.**

**(7) Subsection (4) applies to the 1996 and subsequent taxation years.**

**52. (1) The portion of subsection 163(2.2) of the Act before paragraph (a) is replaced by the following:**

False statement  
or omission

(2.2) Every person who, knowingly or under circumstances amounting to gross negligence, has made or has participated in, assented to or acquiesced in the making of, a false statement or omission in a renunciation that was to have been effective as of a particular date and that is purported to have been made under any of subsections 66(10) to (10.3), (12.6), (12.601) and (12.62), otherwise than because of the application of subsection 66(12.66), is liable to a penalty of 25% of the amount, if any, by which

**(2) Section 163 of the Act is amended by adding the following after subsection (2.2):**

False statement  
or omissions  
with respect to  
look-back rule

(2.21) A person is liable to the penalty determined under subsection (2.22) where the person,

(a) knowingly or under circumstances amounting to gross negligence has made or has participated in, assented to or acquiesced in the making of, a false statement or omission in a document required to be filed under subsection 66(12.73) in respect of a renunciation purported to have been made because of the application of subsection 66(12.66); or

(b) fails to file the document on or before the day that is 24 months after the day on or before which it was required to be filed.

Penalty

(2.22) For the purpose of subsection (2.21), the penalty to which a person is liable in respect of a document required to be filed under subsection 66(12.73) is equal to 25% of the amount, if any, by which

(a) the portion of the excess referred to in subsection 66(12.73) in respect of the document that was known or that ought to have been known by the person

exceeds

(b) where paragraph (2.21)(b) does not apply, the portion of the excess identified in the document, and

(c) in any other case, nil.

**(3) Section 163 of the Act is amended by adding the following after subsection (2.3):**

False statement  
or omission

(2.4) Every person or partnership who, knowingly or under circumstances amounting to gross negligence, makes or participates in, assents to or acquiesces in, the making of a false statement or omission in a return is liable to a penalty of

(a) where the return is required to be filed under section 233.1, \$24,000;

(b) where the return is required to be filed under section 233.2, the greater of

(i) \$24,000, and

(ii) 5% of the total of all amounts each of which is the fair market value of property transferred or loaned (determined as of the time of the transfer or loan) because of which there would, if no other transfer or loan were taken into account, be an obligation to file the return;

(c) where the return is required to be filed under section 233.3 for a taxation year or fiscal period, the greater of

(i) \$24,000, and

(ii) 5% of the greatest of all amounts each of which is the total of the cost amounts to the person or partnership at any time in the year or period of a specified foreign property (as



defined by subsection 233.3(1)(a) of the person or partnership in respect of which the false statement or omission is made;

(d) where the return is required to be filed under section 233.4 for a taxation year or fiscal period, the greater of

(i) \$24,000, and

(ii) 5% of the greatest of all amounts each of which is the total of the cost amounts to the person or partnership at any time in the year or period of a property of the person or partnership that is a share of the capital stock or indebtedness of the foreign affiliate in respect of which the return is being filed; and

(e) where the return is required to be filed under section 233.6 for a taxation year or fiscal period, the greater of

(i) \$2,500, and

(ii) 5% of the total of

(A) all amounts each of which is the fair market value of a property that is distributed to the person or partnership in the year or period by the trust and in respect of which the false statement or omission is made, and

(B) all amounts each of which is the greatest unpaid principal amount of a debt that is owing to the trust by the person or partnership in the year or period and in respect of which the false statement or omission is made.

Shares or debt  
owned by  
controlled  
foreign  
affiliate

(2.5) For the purpose of paragraph (2.4)(d),

(a) shares or indebtedness owned by a controlled foreign affiliate of a person or partnership are deemed to be owned by the person or partnership; and

(b) the cost amount at any time of such shares or indebtedness to the person or partnership is deemed to be equal to 20% of the cost amount at that time to the controlled foreign affiliate of the shares or indebtedness.

Application to  
partnerships

(2.6) For the purposes of paragraph (2.4)(d) and subsection (2.5), in determining whether a non-resident corporation or trust is a foreign affiliate or a controlled foreign affiliate of a partnership

(a) the definitions "direct equity percentage" and "equity percentage" in subsection 95(4) shall be read as if a partnership were a person; and

(b) the definitions "controlled foreign affiliate" and "foreign affiliate" in subsection 95(1) shall be read as if a partnership were a taxpayer resident in Canada.

Application to  
partnerships

(2.7) For the purpose of subsection (2.4), each act or omission of a member of a partnership in respect of an information return required to be filed by the partnership under section 233.3, 233.4 or 233.6 is deemed to be an act or omission of the partnership in respect of the return.

Application to  
members of  
partnerships

(2.8) For the purposes of this subsection and subsection (2.7), a person who is a member of a partnership that is a member of another partnership is deemed to be a member of the other partnership.

Where  
partnership  
liable to  
penalty

(2.9) Where a partnership is liable to a penalty under subsection (2.4), sections 152, 158 to 160.1, 161 and 164 to 167 and Division J apply, with any modifications that the circumstances require, to the penalty as if the partnership were a corporation.

Application to  
non-resident  
trusts

(2.91) For the purposes of this subsection, paragraph (2.4)(d) and subsection (2.5),

(a) a non-resident trust is deemed to be a controlled foreign affiliate of each beneficiary of which the trust is a controlled foreign affiliate for the purpose of section 233.4;

(b) the trust is deemed to be a non-resident corporation having a capital stock of a single class divided into 100 issued shares;

(c) each beneficiary under the trust is deemed to own at any time the number of the issued shares of the corporation that is equal to the proportion of 100 that

(i) the fair market value at that time of the beneficiary's beneficial interest in the trust

is of

(ii) the fair market value at that time of all beneficial interests in the trust; and

(d) the cost amount to a beneficiary at any time of a share of the corporation is deemed to be equal to the amount determined by the formula

$$A/B$$

where

A is the fair market value at that time of the beneficiary's beneficial interest in the trust, and

B is the number of shares deemed under paragraph (c) to be owned at that time by the beneficiary in respect of the corporation.

**(4) Subsection (1) applies to acts and omissions that occur after the day on which this Act is assented to except that, in connection with purported renunciations made before 1999, the expression "(12.601) and (12.62)" in subsection 163(2.2) of the Act, as amended by subsection (1), shall be read as "(12.601), (12.62) and (12.64)".**

**(5) Subsection (3) applies to returns required to be filed on or before a day that is after April 29, 1998.**

**53. (1) The description of C in subsection 190.1(1.1) of the Act is replaced by the following:**

C is the number of days in the year that are after February 25, 1992 and before 1999.

**(2) The description of C in subsection 190.1(1.2) of the Act is replaced by the following:**

C is the number of days in the year that are after February 27, 1995 and before November 1997.

(3) Subsection (1) applies after February 25, 1992.

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

54. (1) Paragraph 198(6)(d) of the Act is replaced by the following:

(d) the cash surrender value of the policy (exclusive of accumulated dividends) is or will be, at or before the end of the year in which the insured person attains 69 years of age, if all premiums under the policy are paid, not less than the maximum total amount (exclusive of accumulated dividends) payable by the insurer under the policy, and

(2) Subsection (1) applies after 1996, except that

(a) it does not apply to a policy held by a trust where the trust acquired the policy before 1997;

(b) it does not apply to a policy where the insured person attained 70 years of age before 1997; and

(c) in applying paragraph 198(6)(d) of the Act, as enacted by subsection (1), to a policy where the insured person attained 69 years of age in 1996, the reference in that paragraph to "69 years of age" shall be read as "70 years of age".

55. (1) The definitions "labour-sponsored funds tax credit" and "registered labour-sponsored venture capital corporation" in section 204.8 of the Act are repealed.

(2) The definition "original purchaser" in section 204.8 of the Act is repealed.

(3) The definition "specified individual" in section 204.8 of the Act is replaced by the following:

"specified  
individual"  
« *particulier*  
*déterminé* »

"specified individual", in respect of a share, means an individual (other than a trust) whose labour-sponsored funds tax credit (as defined by subsection 127.4(6)) in respect of the original acquisition of the share is not nil or would not be nil if this Act were read without reference to paragraphs 127.4(6)(b) and (d).

(4) Section 204.8 of the Act is amended by adding the following in alphabetical order:

"original  
acquisition"  
« *acquisition*  
*initiale* »

"original acquisition" of a share has the meaning assigned by subsection 127.4(1);

**(5) Subsections (1), (3) and (4) apply after 1995.**

**(6) Subsection (2) applies to corporations that are incorporated after March 5, 1996.**

**56. (1) Clause 204.81(1)(c)(ii)(B) of the Act is replaced by the following:**

(B) Class B shares that are issuable only to and may be held only by eligible labour bodies, that entitle each of those shareholders

(I) to receive notice of and, subject to the *Canada Business Corporations Act*, to attend and vote at all meetings of the shareholders of the corporation, and

(II) to receive, on dissolution of the corporation, an amount equal to the amount of the consideration received by the corporation on the issue of the Class B shares,

but that do not entitle them to receive dividends, and

**(2) Subparagraph 204.81(1)(c)(iii) of the Act is replaced by the following:**

(iii) the business and affairs of the corporation shall be managed by a board of directors, at least 1/2 of whom are appointed by the Class B shareholders,

**(3) The portion of subparagraph 204.81(1)(c)(v) of the Act before clause (A) is replaced by the following:**

(v) the corporation shall not redeem a Class A share in respect of which an information return described in paragraph (6)(c) has been issued unless

**(4) Subclauses 204.81(1)(c)(v)(A)(I) and (II) of the Act are replaced by the following:**

(I) a request in writing to redeem the share is made by the holder to the corporation and the information return referred to in paragraph (6)(c) has been returned to the corporation, or

**(5) Clause 204.81(1)(c)(v)(C) of the Act is repealed.**

**(6) Clause 204.81(1)(c)(v)(E) of the Act is replaced by the following:**

(E) the redemption occurs more than 8 years after the day on which the share was issued, or

**(7) Subparagraph 204.81(1)(c)(vi) of the Act is repealed.**

**(8) Clause 204.81(1)(c)(vii)(B) of the Act is repealed.**

**(9) Clauses 204.81(1)(c)(vii)(E) and (F) of the Act are replaced by the following:**

(E) the corporation is notified in writing that the transfer occurs after the specified individual dies,

**(10) Paragraphs 204.81(6)(a) and (a.1) of the Act are replaced by the following:**

(a) the articles of the corporation do not comply with paragraph (1)(c) and would not comply with that paragraph if the corporation had been incorporated after December 5, 1996;

(a.1) the corporation does not comply with any of the provisions of its articles described in paragraph (1)(c), except where there would be no failure to comply if the provisions of its articles were consistent with the articles of a corporation that would be permitted to be registered under this Part if it had been incorporated after December 5, 1996;

**(11) Subsections (1) to (8) apply to corporations that are incorporated after March 5, 1996.**

**(12) Subsection (9) applies to corporations that are incorporated after December 5, 1996.**

**(13) Subsection (10) applies after March 5, 1996.**

**57. (1) Paragraphs (a) and (b) of the definition "excess amount" in subsection 204.9(1) of the Act are replaced by the following:**

(a) \$2,000, and

(b) the amount, if any, by which \$42,000 exceeds the total of all payments made into registered education savings plans by or on behalf of all subscribers in respect of the beneficiary in all preceding years;

**(2) Subsection (1) applies to months that end after 1995, except that, for payments made after 1989 and before 1996,**

(a) the reference to "\$2,000" in paragraph (a) of the definition "excess amount" in subsection 204.9(1) of the Act, as enacted by subsection (1), shall be read as "\$1,500"; and

(b) the reference to "\$42,000" in paragraph (b) of that definition shall be read as "\$31,500".

58. (1) Subsection 208(1.1) of the Act is replaced by the following:

Definition of  
"specified  
stage"

(1.1) For the purpose of subsection (1), "specified stage" means, in respect of the production from a Canadian resource property of a substance,

(a) where the substance is petroleum or related hydrocarbons (other than natural gas), the crude oil stage or its equivalent;

(b) where the substance is natural gas, the stage of natural gas that is acceptable to a common carrier of natural gas;

(c) where the substance is a metal or mineral (other than iron, sulphur or petroleum or related hydrocarbons), the prime metal stage or its equivalent;

(d) where the substance is iron, the pellet stage or its equivalent; and

(e) where the substance is sulphur, the marketable sulphur stage.

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

59. (1) Paragraph (c) of the definition "carved-out income" in subsection 209(1) of the Act is replaced by the following:

(c) to the extent that the property is an interest in a bituminous sands deposit or oil shale deposit, the amount deducted under subsection 66.2(2) in computing the person's income for the year to the extent that it can reasonably be considered to be attributable to the cost of that interest;

(2) Subsection (1) applies after March 6, 1996.

60. (1) The definitions "life insurance policy" and "life insurance policy in Canada" in subsection 211(1) of the Act are replaced by the following:

"life insurance  
policy"  
« *police*  
*d'assurance-*  
*vie* »

"life insurance policy" includes a benefit under

(a) a group life insurance policy, and

(b) a group annuity contract

but does not include

(c) that part of a policy in respect of which the policyholder is deemed by paragraph 138.1(1)(e) to have an interest in a related segregated fund trust, or

(d) a reinsurance arrangement;

"life insurance  
policy in  
Canada"  
« *police*  
*d'assurance-*  
*vie au Canada* »

"life insurance policy in Canada" means a life insurance policy issued or effected by an insurer on the life of a person resident in Canada at the time the policy was issued or effected;

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

**61. (1) Paragraphs (a) and (b) of the description of A in subsection 211.1(3) of the Act are replaced by the following:**

(a) the maximum amount that would be determined under paragraph 1401(1)(a), (c) or (d) of the *Income Tax Regulations* (other than an amount that would be determined under subparagraph 1401(1)(d)(ii) of those Regulations in respect of a disabled life) in respect of the insurer for the year in respect of the liability, benefit, risk or guarantee if subsection 1401(1) of those Regulations applied to all life insurance policies and if that amount were determined without reference to any policy loan or reinsurance arrangement, and

(b) the maximum amount that would be determined under paragraph 1401(1)(a), (c) or (d) of the *Income Tax Regulations* (other than an amount that would be determined under subparagraph 1401(1)(d)(ii) of those Regulations in respect of a disabled life) in respect of the insurer for the preceding taxation year



in respect of the liability, benefit, risk or guarantee if subsection 1401(1) of those Regulations applied to all life insurance policies and if that amount were determined without reference to any policy loan or reinsurance arrangement;

**(2) Paragraphs (a) and (b) of the description of D in the description of B in subsection 211.1(3) of the Act are replaced by the following:**

(a) the maximum amount that would be determined under paragraph 1401(1)(c.1) of the *Income Tax Regulations* in respect of the insurer for the year in respect of the policy if subsection 1401(1) of those Regulations applied to all life insurance policies and if that amount were determined without reference to any policy loan or reinsurance arrangement, and

(b) the maximum amount that would be determined under paragraph 1401(1)(c.1) of the *Income Tax Regulations* in respect of the insurer for the preceding taxation year in respect of the policy if subsection 1401(1) of those Regulations applied to all life insurance policies and if that amount were determined without reference to any policy loan or reinsurance arrangement, and

**(3) Paragraph (c) of the description of E in the description of B in subsection 211.1(3) of the Act is replaced by the following:**

(c) the amount, if any, by which

(i) the maximum amount that would be determined under paragraph 1401(1)(c.1) of the *Income Tax Regulations* in respect of the insurer for the year in respect of the policy if subsection 1401(1) of those Regulations applied to all life insurance policies and if that amount were determined without reference to any policy loan or reinsurance arrangement

exceeds

(ii) the maximum amount that would be determined under paragraph 1401(1)(c.1) of the *Income Tax Regulations* in respect of the insurer for its last 1989 taxation year in respect of the policy if subsection 1401(1) of those Regulations applied to all life insurance policies and if that amount were determined without reference to any policy loan or reinsurance arrangement; and

**(4) Subsections (1) to (3) apply to the 1996 and subsequent taxation years.**

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

PART XII.5

RECOVERY OF LABOUR-SPONSORED FUNDS TAX CREDIT

Definitions

211.7 The definitions in this section apply for the purposes of this Part.

"approved share"  
« *action approuvée* »

"approved share" has the meaning assigned by subsection 127.4(1).

"labour-sponsored funds tax credit"  
« *crédit d'impôt relatif à un fonds de travailleurs* »

"labour-sponsored funds tax credit" in respect of a share is

(a) where the original acquisition of the share occurred before 1996, 20% of the net cost of the share on that acquisition; and

(b) in any other case, the amount that would be determined under subsection 127.4(6) in respect of the share if this Act were read without reference to paragraphs 127.4(6)(b) and (d).

"net cost"  
« *coût net* »

"net cost" has the meaning assigned by subsection 127.4(1).

"original acquisition"  
« *acquisition initiale* »

"original acquisition" has the meaning assigned by subsection 127.4(1).

"qualifying trust"

« *fiducie*  
*admissible* »

"qualifying trust" has the meaning assigned by subsection 127.4(1).

"revoked  
corporation"  
« *société*  
*radiée* »

"revoked corporation" means a corporation the registration of which has been revoked under subsection 204.81(6).

Disposition of  
approved share

**211.8** (1) Where an approved share of the capital stock of a registered labour-sponsored venture capital corporation or a revoked corporation is redeemed, acquired or cancelled by the corporation less than 8 years after the day on which the share was issued (other than in circumstances described in subclause 204.81(1)(c)(v)(A)(I) or (III) or clause 204.81(1)(c)(v)(B) or (D)) or any other approved share is disposed of, the person who was the shareholder immediately before the redemption, acquisition, cancellation or disposition shall pay a tax under this Part equal to the lesser of

(a) the amount determined by the formula

$$A \times B$$

where

A is

(i) where the share was issued by a registered labour-sponsored venture capital corporation or a revoked corporation, the labour-sponsored funds tax credit in respect of the share, and

(ii) where the share was issued by any other labour-sponsored venture capital corporation, the amount, if any, required to be remitted to the government of a province as a consequence of the redemption, acquisition, cancellation or disposition (otherwise than as a consequence of an increase in the corporation's liability for a penalty under a law of the province), and

B is

(i) nil, where the share was issued by a registered labour-sponsored venture capital corporation or a revoked

corporation, the original acquisition of the share was before March 6, 1996 and the redemption, acquisition, cancellation or disposition is

(A) more than 2 years after the day on which it was issued, where the redemption, acquisition, cancellation or disposition is permitted under the articles of the corporation because an individual attains 65 years of age, retires from the workforce or ceases to be resident in Canada, or

(B) more than 5 years after the day on which it was issued,

(ii) one, in any other case where the share was issued by a registered labour-sponsored venture capital corporation or a revoked corporation, and

(iii) in any other case, the quotient obtained when the labour-sponsored fund tax credit in respect of the share is divided by the tax credit provided under a law of a province in respect of any previous acquisition of the share, and

(b) the amount that would, but for subsection (2), be payable to the shareholder because of the redemption, acquisition, cancellation or disposition (determined after taking into account the amount determined under subparagraph (ii) of the description of A in paragraph (a)).

Withholding and  
remittance of  
tax

(2) Where a person or partnership (in this section referred to as the "transferee") redeems, acquires or cancels a share and, as a consequence, tax is payable under this Part by the person who was the shareholder immediately before the redemption, acquisition or cancellation, the transferee shall

(a) withhold from the amount otherwise payable on the redemption, acquisition or cancellation to the shareholder the amount of the tax;

(b) within 30 days after the redemption, acquisition or cancellation, remit the amount of the tax to the Receiver General on behalf of the shareholder; and

(c) submit with the remitted amount a statement in prescribed form.

Liability for  
tax

(3) Where a transferee has failed to withhold any amount as required by subsection (2) from an amount paid or credited to a shareholder, the transferee is liable to pay as tax under this Part on behalf of the shareholder the amount the transferee failed to withhold, and is entitled to recover that amount from the shareholder.

Refund of  
clawback

**211.9** The Minister may pay to an individual (other than a trust) an amount not exceeding the lesser of

(a) either

(i) the tax paid under this Part in respect of a disposition of an approved share, or

(ii) the amount determined under regulations made for the purpose of clause 204.81(1)(c)(v)(F) that was remitted to the Receiver General in respect of a disposition of an approved share, and

(b) the amount, if any, by which

(i) 15% of the net cost of the share on the original acquisition by the individual (or by a qualifying trust for the individual in respect of the share)

exceeds

(ii) the amount deducted under subsection 127.4(2) in respect of the original acquisition of the share by the individual (or by a qualifying trust for the individual in respect of the share)

if application for the payment has been made in writing by the individual and filed with the Minister no later than 2 years after the end of the calendar year in which the disposition occurred.

## PART XII.6

### TAX ON FLOW-THROUGH SHARES

Tax imposed

**211.91** (1) Every corporation shall pay a tax under this Part in respect of each month (other than January) in a calendar year equal to the amount determined by the formula

$$(A + B/2 - C - D/2) \times (E/12 + F/10)$$

where

- A is the total of all amounts each of which is an amount that the corporation purported to renounce in the year under subsection 66(12.6) or (12.601) because of the application of subsection 66(12.66) (other than an amount purported to be renounced in respect of expenses incurred or to be incurred in connection with production or potential production in a province where a tax, similar to the tax provided under this Part, is payable by the corporation under the laws of the province as a consequence of the failure to incur the expenses that were purported to be renounced);
- B is the total of all amounts each of which is an amount that the corporation purported to renounce in the year under subsection 66(12.6) or (12.601) because of the application of subsection 66(12.66) and that is not included in the value of A;
- C is the total of all expenses described in paragraph 66(12.66)(b) that are
- (a) made or incurred by the end of the month by the corporation, and
  - (b) in respect of the purported renunciations in respect of which an amount is included in the value of A;
- D is the total of all expenses described in paragraph 66(12.66)(b) that are
- (a) made or incurred by the end of the month by the corporation, and
  - (b) in respect of the purported renunciations in respect of which an amount is included in the value of B;
- E is the rate of interest prescribed for the purpose of subsection 164(3) for the month; and
- F is
- (a) one, where the month is December, and
  - (b) nil, in any other case.

Return and  
payment of tax

(2) A corporation liable to tax under this Part in respect of one or more months in a calendar year shall, before March of the following calendar year,

(a) file with the Minister a return for the year under this Part in prescribed form containing an estimate of the tax payable under this Part by it in respect of each month in the year; and

(b) pay to the Receiver General the amount of tax payable under this Part by it in respect of each month in the year.

Provisions  
applicable to  
Part

(3) Subsections 150(2) and (3), sections 152, 158 and 159, subsections 161(1) and (11), sections 162 to 167 and Division J of Part I apply to this Part, with any modifications that the circumstances require.

(2) Section 211.7 and subsection 211.8(1) of the Act, as enacted by subsection (1), apply to redemptions, acquisitions, cancellations and dispositions that occur after November 15, 1995, except that section 211.7 and subsection 211.8(1) of the Act, as enacted by subsection (1), do not apply

(a) to any redemption that occurs before 1998 of a share of the capital stock of a corporation that was registered under subsection 204.81(1) of the Act, where an amount determined under regulations made for the purpose of clause 204.81(1)(c)(v)(F) of the Act is directed to be remitted to the Receiver General in order to permit the redemption; and

(b) to any disposition that occurs before 1998, where an amount is required to be remitted to the government of a province as a consequence of the disposition and a portion of the amount is in respect of the recovery of a tax credit that is provided under subsection 127.4(2) of the Act in respect of the share.

(3) Subsections 211.8(2) and (3) of the Act, as enacted by subsection (1), apply to redemptions, acquisitions and cancellations that occur after the day on which this Act is assented to.

(4) Section 211.9 of the Act, as enacted by subsection (1), applies after the day on which this Act is assented to, except that

(a) the reference to "15%" in subparagraph 211.9(b)(i) of the Act, as enacted by that subsection, shall be read as "20%" in respect of a disposition of a share the original acquisition of which was before March 6, 1996; and

(b) any application filed under that section before 1998 is deemed to be filed on a timely basis.

(5) Part XII.6 of the Act, as enacted by subsection (1), applies to the 1997 and subsequent calendar years.

63. (1) Paragraph 212(1)(f) of the Act is repealed.

(2) Subsection (1) applies to amounts paid and credited after April 1997.

64. (1) Section 217 of the Act is replaced by the following:

Alternative re  
Canadian  
benefits

217. (1) In this section, a non-resident person's "Canadian benefits" for a taxation year is the total of all amounts each of which is an amount paid or credited in the year and in respect of which tax under this Part would, but for this section, be payable by the person because of any of paragraphs 212(1)(h), (j) to (m) and (q).

Part I return

(2) No tax is payable under this Part in respect of a non-resident person's Canadian benefits for a taxation year if the person

(a) files with the Minister, within 6 months after the end of the year, a return of income under Part I for the year; and

(b) elects in the return to have this section apply for the year.

Taxable income  
earned in  
Canada

(3) Where a non-resident person elects under paragraph (2)(b) for a taxation year, for the purposes of Part I

(a) the person is deemed to have been employed in Canada in the year; and

(b) the person's taxable income earned in Canada for the year is deemed to be the greater of

(i) the amount that would, but for subparagraph (ii), be the person's taxable income earned in Canada for the year if

(A) paragraph 115(1)(a) included the following subparagraph after subparagraph (i):



"(i.1) the non-resident person's Canadian benefits for the year, within the meaning assigned by subsection 217(1)", and

(B) paragraph 115(1)(f) were read as follows:

"(f) such of the other deductions permitted for the purpose of computing taxable income as can reasonably be considered wholly applicable to the amounts described in subparagraphs (a)(i) to (vi)."; and

(ii) the person's income for the year, minus the total of such of the deductions permitted for the purpose of computing taxable income as can reasonably be considered wholly applicable to the amounts described in subparagraphs 115(1)(a)(i) to (vi).

Tax credits -  
limitation

(4) Sections 118 to 118.91 and 118.94 do not apply in computing the tax payable under Part I for a taxation year by a non-resident person who elects under paragraph (2)(b) for the year, unless

(a) where section 114 applies to the person for the year, all or substantially all of the person's income for the year is included in computing the person's taxable income for the year; or

(b) in any other case, all or substantially all of the person's income for the year is included in computing the amount determined under subparagraph (3)(b)(i) in respect of the person for the year.

Tax credits  
allowed

(5) In computing the tax payable under Part I for a taxation year by a non-resident person to whom neither paragraph (4)(a) nor paragraph (4)(b) applies for the year there may, notwithstanding section 118.94 and subsection (4), be deducted the lesser of

(a) the total of

(i) such of the amounts that would have been deductible under any of section 118.2, subsections 118.3(2) and (3) and sections 118.6, 118.8 and 118.9 in computing the person's tax payable under Part I for the year if the person had been resident in Canada throughout the year, as can reasonably be considered wholly applicable, and

(ii) the amounts that would have been deductible under any of sections 118 and 118.1, subsection 118.3(1) and sections 118.5 and 118.7 in computing the person's tax payable under Part I

for the year if the person had been resident in Canada throughout the year, and

(b) the appropriate percentage for the year of the person's Canadian benefits for the year.

#### Special credit

(6) In computing the tax payable under Part I for a taxation year by a non-resident who elects under paragraph (2)(b) for the year, there may be deducted the amount determined by the formula

$$A \times [(B - C) / B]$$

where

A is the amount of tax under Part I that would, but for this subsection, be payable by the person for the year;

B is the amount determined under subparagraph (3)(b)(ii) in respect of the person for the year; and

C is the amount determined under subparagraph (3)(b)(i) in respect of the person for the year.

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

**65. (1) The portion of subparagraph 219(4)(a)(i.1) of the Act before clause (A) is replaced by the following:**

(i.1) where, in any particular taxation year that began before the end of the year, the insurer transferred to a taxable Canadian corporation with which it did not deal at arm's length any designated insurance property of the insurer for the particular year, and

**(2) Subsection 219(5.1) of the Act is replaced by the following:**

Additional tax  
on insurer

(5.1) Where a non-resident insurer ceases in a taxation year to carry on all or substantially all of an insurance business in Canada, it shall, on or before its filing-due date for the year, pay a tax for the year equal to 25% of the amount, if any, by which

(a) that portion of the amount determined under paragraph (4)(a) for the year in respect of the insurer that can reasonably be attributed to the business, including the disposition by it of property that was its designated insurance property in respect of the business for the year in which the disposition occurred,

exceeds

(b) the amount the insurer and a qualified related corporation of the insurer jointly elect in accordance with subsection (5.2) for the year in respect of the business.

**(3) The definitions "accumulated 1968 deficit" and "attributed surplus for the year" in subsection 219(7) of the Act are replaced by the following:**

"accumulated  
1968 deficit"  
« *déficit*  
*accumulé pour*  
*1968* »

"accumulated 1968 deficit" of a life insurer means such amount as can be established by the insurer to be its deficit as of the end of its 1968 taxation year from carrying on its life insurance business in Canada on the assumption that the amounts of its assets and liabilities (including reserves of any kind)

(a) as of the end of any taxation year before its 1968 taxation year, were the amounts thereof determined for the purposes of the Superintendent of Insurance for Canada or other similar officer, and

(b) as of the end of its 1968 taxation year, were

(i) in respect of depreciable property, the capital cost thereof as of the first day of its 1969 taxation year,

(ii) in respect of policy reserves, the insurer's maximum tax actuarial reserves for its 1968 taxation year for life insurance policies issued by it in the course of carrying on its life insurance business in Canada, and

(iii) in respect of other assets and liabilities, the amounts thereof determined as of the end of that year for the purpose of computing its income for its 1969 taxation year;

"attributed  
surplus"  
« *surplus*  
*attribué* »

"attributed surplus" of an insurer for a taxation year has the meaning assigned by regulation;

**(4) Subsections (1) to (3) apply to the 1996 and subsequent taxation years.**

**66. (1) Section 220 of the Act is amended by adding the following after subsection (5):**

Assignment by  
corporation

(6) Notwithstanding section 67 of the *Financial Administration Act* and any other provision of a law of Canada or a province, a corporation may assign any amount payable to it under this Act.

Effect of  
assignment

(7) An assignment referred to in subsection (6) is not binding on Her Majesty in right of Canada and, without limiting the generality of the foregoing,

(a) the Minister is not required to pay to the assignee the assigned amount;

(b) the assignment does not create any liability of Her Majesty in right of Canada to the assignee; and

(c) the rights of the assignee are subject to all equitable and statutory rights of set-off in favour of Her Majesty in right of Canada.

**(2) Subsection (1) applies to assignments made after March 5, 1996.**

**67. (1) The portion of subsection 227(5) of the Act before subparagraph (b)(ii) is replaced by the following:**

Payments by  
trustees, etc.

(5) Where a specified person in relation to a particular person (in this subsection referred to as the "payer") has any direct or indirect influence over the disbursements, property, business or estate of the payer and the specified person, alone or together with another person, authorizes or otherwise causes a payment referred to in subsection 135(3) or 153(1), or on or in respect of which tax is payable under Part XII.5 or XIII, to be made by or on behalf of the payer, the specified person

(a) is, for the purposes of subsections 135(3) and 153(1), section 215 and this section, deemed to be a person who made the payment;

(a.1) is, for the purpose of subsection 211.8(2), deemed to be a person who redeemed, acquired or cancelled a share and made the

payment as a consequence of the redemption, acquisition or cancellation;

(b) is jointly and severally liable with the payer to pay to the Receiver General

(i) all amounts payable by the payer because of any of subsections 135(3), 153(1) and 211.8(2) and section 215 in respect of the payment, and

**(2) Subsection 227(6) of the Act is replaced by the following:**

Excess  
withheld,  
returned or  
applied

(6) Where a person on whose behalf an amount has been paid under Part XII.5 or XIII to the Receiver General was not liable to pay tax under that Part or where the amount so paid is in excess of the amount that the person was liable to pay, the Minister shall, on written application made no later than 2 years after the end of the calendar year in which the amount was paid, pay to the person the amount so paid or such part of it as the person was not liable to pay, unless the person is or is about to become liable to make a payment to Her Majesty in right of Canada, in which case the Minister may apply the amount otherwise payable under this subsection to that liability and notify the person of that action.

**(3) Subsection 227(7) of the Act is replaced by the following:**

Application for  
assessment

(7) Where, on application under subsection (6) by or on behalf of a person to the Minister in respect of an amount paid under Part XII.5 or XIII to the Receiver General, the Minister is not satisfied

(a) that the person was not liable to pay any tax under that Part, or

(b) that the amount paid was in excess of the tax that the person was liable to pay,

the Minister shall assess any amount payable under that Part by the person and send a notice of assessment to the person, and sections 150 to 163, subsections 164(1) and (1.4) to (7), sections 164.1 to 167 and Division J of Part I apply with any modifications that the circumstances require.

**(4) The portion of subsection 227(8.3) of the Act before paragraph (a) is replaced by the following:**

Interest on  
amounts not  
deducted or  
withheld

(8.3) A person who fails to deduct or withhold any amount as required by subsection 135(3), 153(1) or 211.8(2) or section 215 shall pay to the Receiver General interest on the amount at the prescribed rate, computed

**(5) Subsection 227(8.3) of the Act is amended by striking out the word "and" at the end of paragraph (a), by adding the word "and" at the end of paragraph (b) and by adding the following after paragraph (b):**

(c) in the case of an amount required by subsection 211.8(2) to be withheld, from the day on or before which the amount was required to be remitted to the Receiver General to the day of the payment of the amount to the Receiver General.

**(6) Section 227 of the Act is amended by adding the following after subsection (10):**

Part XII.5

(10.01) The Minister may at any time assess any amount payable under Part XII.5 by a person resident in Canada and, where the Minister sends a notice of assessment to that person, Divisions I and J of Part I apply with any modifications that the circumstances require.

**(7) Paragraphs 227(10.1)(a) to (b) of the Act are replaced by the following:**

(a) any amount payable under section 116 or subsection (9), (9.2), (9.3) or (9.4) by any person,

(b) any amount payable under subsection (10.2) by any person as a consequence of a failure by a non-resident person to remit any amount, and

(c) any amount payable under Part XII.5 or XIII by any non-resident person,

**(8) Subsection 227(15) of the Act is replaced by the following:**

Partnership  
included in  
"person"

(15) In this section, a reference to a "person" with respect to any amount deducted or withheld or required to be deducted or withheld is deemed to include a partnership.

**68. (1) Section 233 of the Act is replaced by the following:**

Information  
return

**233.** (1) Every person shall, on written demand from the Minister served personally or otherwise, whether or not the person has filed an information return as required by this Act or the regulations, file with the Minister, within such reasonable time as is stipulated in the demand, the information return if it has not been filed or such information as is designated in the demand.

Partnerships

(2) Every partnership shall, on written demand from the Minister served personally or otherwise on any member of the partnership, file with the Minister, within such reasonable time as is stipulated in the demand, an information return required under section 233.3, 233.4 or 233.6.

Application to  
members of  
partnerships

(3) For the purposes of this subsection and subsection (2), a person who is a member of a partnership that is a member of another partnership is deemed to be a member of the other partnership.

**(2) Subsection (1) applies to returns required to be filed on or before a day that is after April 29, 1998.**

**69. (1) The Act is amended by adding the following after section 233.1:**

Definitions

**233.2** (1) The definitions in this subsection apply in this section.

"exempt trust"  
« *fiducie*  
*exonérée* »

"exempt trust" means

(a) a trust that is governed by a foreign retirement arrangement;

(b) a trust that

(i) is resident in a country under the laws of which an income tax is imposed,

(ii) is exempt under the laws referred to in subparagraph (i) from the payment of income tax to the government of that country,

(iii) is established principally in connection with, or the principal purpose of which is to administer or provide benefits under, one or more superannuation, pension or retirement funds or plans or any funds or plans established to provide employee benefits, and

(iv) is maintained primarily for the benefit of non-resident individuals; or

(c) a trust

(i) where the interest of each beneficiary under the trust is described by reference to units, and

(ii) that complies with prescribed conditions.

"specified  
beneficiary"  
« *bénéficiaire  
déterminé* »

"specified beneficiary" at any time under a trust means

(a) any person beneficially interested in the trust who is not at that time

(i) a mutual fund corporation,

(ii) a non-resident-owned investment corporation,

(iii) a person (other than a trust) all of whose taxable income for the person's taxation year that includes that time is exempt from tax under Part I,

(iv) a trust all of the taxable income of which for its taxation year that includes that time is exempt from tax under Part I,

(v) a mutual fund trust,

(vi) a trust described in any of paragraphs (a) to (e.1) of the definition "trust" in subsection 108(1),



(vii) a registered investment,

(viii) a trust in which all persons beneficially interested are persons described in subparagraphs (i) to (vii),

(ix) a particular person who is beneficially interested in the trust solely because the particular person is beneficially interested in an exempt trust or a trust described in this subparagraph or any of subparagraphs (iv) to (vi), nor

(x) a particular person who is beneficially interested in the trust only because of a right that is subject to a contingency, where at that time the identity of the particular person as a person beneficially interested in the trust is impossible to determine; or

(b) any person described at that time in any of subparagraphs (a)(i) to (x) who is beneficially interested in the trust, where it is reasonable to consider that the person became beneficially interested in the trust as part of a transaction or event or series of transactions or events one of the purposes of which is to limit the reporting in respect of the trust that would, but for this paragraph, be required under subsection (4).

"specified  
foreign trust"  
« *fiducie  
étrangère  
déterminée* »

"specified foreign trust" at any time means a trust (other than an exempt trust) that is non-resident at that time where either

(a) there is a specified beneficiary under the trust who at that time

(i) is resident in Canada,

(ii) is a corporation or trust with which a person resident in Canada does not deal at arm's length, or

(iii) is a controlled foreign affiliate of a person resident in Canada; or

(b) at that time the terms of the trust

(i) permit persons (other than persons described in any of subparagraphs (a)(i) to (viii) of the definition "specified beneficiary") to be added as beneficiaries under the trust after that time who are not beneficially interested in the

trust at that time and who may be resident in Canada at the time of being so added, or

(ii) allow property to be distributed, directly or indirectly, to another trust that immediately after the receipt of the distribution can reasonably be expected to be a specified foreign trust.

Non-arm's  
length  
indicators

(2) For the purpose of this section,

(a) a non-arm's length indicator applies to a trust at a particular time with respect to a transfer of property made at an earlier time to the trust or a corporation where

(i) immediately after the earlier time the transferor was

(A) a specified beneficiary under the trust,

(B) a person related to a specified beneficiary under the trust,

(C) an uncle, aunt, nephew or niece of a specified beneficiary under the trust, or

(D) a trust or corporation that had, directly or indirectly in any manner whatever, previously acquired the transferred property from a person described in clause (A), (B) or (C),

(ii) the fair market value at the earlier time of the transferred property was greater than the amount, if any, by which

(A) the total fair market value at the earlier time of the consideration, if any, given to the transferor for the transfer of property at the earlier time

exceeds

(B) the portion of the total described in clause (A) that is attributable to the fair market value of an interest as a beneficiary in the trust or a share or debt issued by the corporation,

(iii) the consideration received by the transferor in respect of the transfer included indebtedness on which

(A) interest was not charged in respect of a period that began before the particular time,

(B) interest was charged in respect of a period that began before the particular time at a rate that was less than the lesser of

(I) the prescribed rate that was in effect at the earlier time, and

(II) the rate that would, having regard to all the circumstances, have been agreed on at the earlier time between parties dealing with each other at arm's length,

(C) any interest that was payable at the end of any calendar year that ended at or before the particular time was unpaid on the day that is 180 days after the end of that calendar year, or

(D) the amount of interest that was payable at the end of any calendar year that ended at or before the particular time was paid on or before the day that is 180 days after the end of that calendar year and it is established, by subsequent events or otherwise, that the payment was made as part of a series of loans or other transactions and repayments,

(iv) the property transferred was a share of the capital stock of a corporation or an interest in another trust and a specified beneficiary under the trust is related to the corporation or the other trust or would be so related if paragraph 80(2)(j) applied for the purposes of this subparagraph, or

(v) the transfer was made as part of a series of transactions or events one of the purposes of which was to avoid the application of this paragraph; and

(b) a non-arm's length indicator applies to a trust at a particular time with respect to a loan made at an earlier time where

(i) interest was not charged on the loan in respect of a period that began before the particular time,

(ii) interest was charged on the loan in respect of a period that began before the particular time at a rate that was less than the lesser of

(A) the prescribed rate that was in effect at the earlier time, and

(B) the rate that would, having regard to all the circumstances, have been agreed on at the earlier time between parties dealing with each other at arm's length,

(iii) any interest on the loan that was payable at the end of any calendar year that ended at or before the particular time was unpaid on the day that is 180 days after the end of that calendar year,

(iv) the amount of interest on the loan that was payable at the end of any calendar year that ended at or before the particular time was paid on or before the day that is 180 days after the end of that calendar year and it is established, by subsequent events or otherwise, that the payment was made as part of a series of loans or other transactions and repayments, or

(v) the loan was made as part of a series of transactions or events one of the purposes of which was to avoid the application of this paragraph.

#### Partnerships

(3) For the purpose of this section, where property is transferred or lent at any time by a partnership, the property is deemed to have been transferred or lent at that time by each of the members of the partnership.

#### Filing information on specified foreign trusts

(4) Where

(a) at any time (in this subsection referred to as the "transfer time") before the end of a trust's taxation year (in this subsection referred to as the "trust's year"), property was transferred or lent, either directly or indirectly in any manner whatever, by any person (in this subsection referred to as the "transferor") to

(i) the trust, or

(ii) a corporation that, at the transfer time, would have been a controlled foreign affiliate of the trust if the trust had been resident in Canada,

(b) the trust was a specified foreign trust at any time in the trust's year, and

(c) unless paragraph (b) of the definition "specified foreign trust" in subsection (1) applies, a non-arm's length indicator applied to the trust at the end of the trust's year with respect to the transfer or loan,

the following rules apply:

(d) where the transferor is resident in Canada at the end of the trust's year, the transferor shall make an information return in respect of the trust's year in prescribed form and file it with the Minister on or before the transferor's filing-due date for the transferor's taxation year that includes the end of the trust's year, and

(e) where

(i) the transferor was, at the transfer time, a corporation that would have been a controlled foreign affiliate of a particular person if the particular person had been resident in Canada, and

(ii) the particular person is resident in Canada at the end of the trust's year,

the particular person shall make an information return in respect of the trust's year in prescribed form and file it with the Minister on or before the filing-due date for the particular person's taxation year that includes the end of the trust's year.

#### Joint filing

(5) Where information returns in respect of a trust's taxation year would, but for this subsection, be required to be filed under subsection (4) by a particular person and another person, and the particular person identifies the other person in an election filed in writing with the Minister, for the purposes of applying this Act to the particular person

(a) the information return filed by the other person shall be treated as if it had been filed by the particular person;

(b) the information required to be provided with the return by the particular person shall be deemed to be the information required to be provided by the other person with the return;

(c) the day on or before which the return is required to be filed by the particular person is deemed to be the later of the day on or before which

(i) the return would, but for this subsection, have been required to have been filed by the particular person, and

(ii) the return is required to have been filed by the other person; and

(d) each act and omission of the other person in respect of the return is deemed to be an act or omission of the particular person.

Definitions

**233.3** (1) The definitions in this subsection apply in this section.

"reporting  
entity"  
« *déclarant* »

"reporting entity" for a taxation year or fiscal period means a specified Canadian entity for the year or period where, at any time (other than a time when the entity is non-resident) in the year or period, the total of all amounts each of which is the cost amount to the entity of a specified foreign property of the entity exceeds \$100,000.

"specified  
Canadian  
entity"  
« *entité  
canadienne  
déterminée* »

"specified Canadian entity" for a taxation year or fiscal period means

(a) a taxpayer resident in Canada in the year that is not

(i) a mutual fund corporation,

(ii) a non-resident-owned investment corporation,

(iii) a person (other than a trust) all of whose taxable income for the year is exempt from tax under Part I,

(iv) a trust all of the taxable income of which for the year is exempt from tax under Part I,

(v) a mutual fund trust,

(vi) a trust described in any of paragraphs (a) to (e.1) of the definition "trust" in subsection 108(1),

(vii) a registered investment, nor

(viii) a trust in which all persons beneficially interested are persons described in subparagraphs (i) to (vii); and

(b) a partnership (other than a partnership all the members of which are taxpayers referred to in any of subparagraphs (a)(i) to (viii)) where the total of all amounts, each of which is a share of the partnership's income or loss for the period of a

non-resident member, is less than 90% of the income or loss of the partnership for the period, and, where the income and loss of the partnership are nil for the period, the income of the partnership for the period is deemed to be \$1,000,000 for the purpose of determining a member's share of the partnership's income for the purpose of this paragraph.

"specified  
foreign  
property"  
« *bien étranger  
déterminé* »

"specified foreign property" of a person or partnership means any property of the person or the partnership that is

(a) funds or intangible property which are situated, deposited or held outside Canada,

(b) tangible property situated outside Canada,

(c) a share of the capital stock of a non-resident corporation,

(d) an interest in a non-resident trust or a trust that, but for section 94, would be a non-resident trust for the purpose of this section,

(e) an interest in a partnership that owns or holds specified foreign property,

(f) an interest in, or right with respect to, an entity that is non-resident,

(g) indebtedness owed by a non-resident person,

(h) an interest in or right, under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to any property (other than any property owned by a corporation or trust that is not the person) that is specified foreign property, and

(i) property that, under the terms or conditions thereof or any agreement relating thereto, is convertible into, is exchangeable for or confers a right to acquire, property that is specified foreign property,

but does not include

(j) property that is used or held exclusively in the course of carrying on an active business of the person or partnership (determined as if the person or partnership were a corporation resident in Canada),

(k) a share of the capital stock or indebtedness of a non-resident corporation that is a foreign affiliate of the person or partnership for the purpose of section 233.4,

(l) an interest in, or indebtedness of, a non-resident trust that is a foreign affiliate of the person or partnership for the purpose of section 233.4,

(m) an interest in a non-resident trust that was not acquired for consideration by either the person or partnership or a person related to the person or partnership,

(n) an interest in a trust described in paragraph (a) or (b) of the definition "exempt trust" in subsection 233.2(1),

(o) an interest in a partnership that is a specified Canadian entity,

(p) personal-use property of the person or partnership, and

(q) an interest in or right to acquire a property that is described in any of paragraphs (j) to (p).

Application to  
members of  
partnerships

(2) For the purpose of this section, a person who is a member of a partnership that is a member of another partnership

(a) is deemed to be a member of the other partnership; and

(b) the person's share of the income or loss of the other partnership is deemed to be equal to the amount of that income or loss to which the person is directly or indirectly entitled.

Returns  
respecting  
foreign  
property

(3) A reporting entity for a taxation year or fiscal period shall file with the Minister for the year or period a return in prescribed form on or before the day that is

(a) where the entity is a partnership, the day on or before which a return is required by section 229 of the *Income Tax Regulations* to be filed in respect of the fiscal period of the partnership or would be required to be so filed if that section applied to the partnership; and



(b) where the entity is not a partnership, the entity's filing-due date for the year.

Reporting  
entity

**233.4** (1) For the purpose of this section, "reporting entity" for a taxation year or fiscal period means

(a) a taxpayer resident in Canada (other than a taxpayer all of whose taxable income for the year is exempt from tax under Part I) of which a non-resident corporation is a foreign affiliate at any time in the year;

(b) a taxpayer resident in Canada (other than a taxpayer all of whose taxable income for the year is exempt from tax under Part I) of which a non-resident trust is a foreign affiliate at any time in the year; and

(c) a partnership

(i) where the total of all amounts, each of which is a share of the partnership's income or loss for the period of a non-resident member, is less than 90% of the income or loss of the partnership for the period, and, where the income and loss of the partnership are nil for the period, the income of the partnership for the period is deemed to be \$1,000,000 for the purpose of determining a member's share of the partnership's income for the purpose of this subparagraph, and

(ii) of which a non-resident corporation or trust is a foreign affiliate of which at any time in the fiscal period.

Rules of  
application

(2) For the purpose of this section, in determining whether a non-resident corporation or trust is a foreign affiliate or a controlled foreign affiliate of a taxpayer resident in Canada or of a partnership

(a) paragraph (b) of the definition "equity percentage" in subsection 95(4) shall be read as if the reference to "any corporation" were a reference to "any corporation other than a corporation resident in Canada";

(b) the definitions "direct equity percentage" and "equity percentage" in subsection 95(4) shall be read as if a partnership were a person; and

(c) the definitions "controlled foreign affiliate" and "foreign affiliate" in subsection 95(1) shall be read as if a partnership were a taxpayer resident in Canada.

Application to  
members of  
partnerships

(3) For the purpose of this section, a person who is a member of a partnership that is a member of another partnership

(a) is deemed to be a member of the other partnership; and

(b) the person's share of the income or loss of the other partnership is deemed to be equal to the amount of that income or loss to which the person is directly or indirectly entitled.

Returns  
respecting  
foreign  
affiliates

(4) A reporting entity for a taxation year or fiscal period shall file with the Minister for the year or period a return in prescribed form in respect of each foreign affiliate of the entity in the year or period within 15 months after the end of the year or period.

Due diligence  
exception

**233.5** The information required in a return filed under section 233.2 or 233.4 does not include information that is not available, on the day on which the return is filed, to the person or partnership required to file the return where

(a) there is a reasonable disclosure in the return of the unavailability of the information;

(b) before that day, the person or partnership exercised due diligence in attempting to obtain the information;

(c) if

(i) the return is required to be filed under section 233.2, or

(ii) the return is required to be filed under section 233.4 by a person or partnership in respect of a corporation that is a controlled foreign affiliate, for the purpose of that section, of the person or partnership,

it was reasonable to expect, at the time of each transaction, if any, entered into by the person or partnership after March 5, 1996 that gives rise to the requirement to file the return or that affects the information to be reported in the return, that sufficient information would be available to the person or partnership to comply with that section; and

(d) if the information subsequently becomes available to the person or partnership, it is filed with the Minister not more than 90 days after it becomes so available.

Returns  
respecting  
distributions  
from non-  
resident trusts

**233.6** (1) Where a specified Canadian entity (as defined by subsection 233.3(1)) for a taxation year or fiscal period receives a distribution of property from, or is indebted to, a non-resident trust (other than a trust that was an excluded trust in respect of the year or period of the entity or an estate that arose on and as a consequence of the death of an individual) in the year or period and the entity is beneficially interested in the trust at any time in the year or period, the entity shall file with the Minister for the year or period a return in prescribed form on or before the day that is

(a) where the entity is a partnership, the day on or before which a return is required by section 229 of the *Income Tax Regulations* to be filed in respect of the fiscal period of the partnership or would be required to be so filed if that section applied to the partnership; and

(b) where the entity is not a partnership, the entity's filing-due date for the year.

Excluded trust  
defined

(2) For the purpose of subsection (1), an excluded trust in respect of the taxation year or fiscal period of an entity means

(a) a trust described in paragraph (a) or (b) of the definition "exempt trust" in subsection 233.2(1) throughout the portion of the year or period during which the trust was extant;

(b) a trust in respect of which the entity is required by section 233.2 to file a return in respect of each taxation year of the trust that ends in the entity's year;

(c) a trust an interest in which is at any time in the year or period specified foreign property (as defined by subsection 233.3(1)) of the entity, where the entity is a reporting entity (as defined by subsection 233.3(1)) for the year or period; and

(d) a trust in respect of which the entity is required by section 233.4 to file a return for the year or period.

Exception for  
first-year  
residents

**233.7** Notwithstanding sections 233.2, 233.3, 233.4 and 233.6, a person who, but for this section, would be required under any of those sections to file an information return for a taxation year, is not required to file the return if the person is an individual (other than a trust) who first became resident in Canada in the year.

(2) Section 233.2 of the Act, as enacted by subsection (1), applies to returns in respect of trusts' taxation years that begin after 1995, except that such a return in respect of a taxation year that ends in 1996, 1997 or 1998 is required to be filed on or before the later of

(a) April 30, 1998, and

(b) the day on or before which the return is otherwise required to be filed.

(3) Sections 233.3 and 233.6 of the Act, as enacted by subsection (1), apply to returns for taxation years and fiscal periods that begin after 1995, except that such a return for a taxation year or fiscal period that ends in 1996, 1997 or 1998 is required to be filed on or before the later of

(a) April 30, 1998, and

(b) the day on or before which the return is otherwise required to be filed.

(4) Section 233.4 of the Act, as enacted by subsection (1), applies to returns for taxation years and fiscal periods that begin after 1995, except that such a return for a taxation year or fiscal period that ends in 1996, 1997 or 1998 is required to be filed on or before the later of

(a) June 30, 1998, and

(b) the day on or before which the return is otherwise required to be filed.

(5) Sections 233.5 and 233.7 of the Act, as enacted by subsection (1), apply to returns required to be filed on or before a day that is after April 29, 1998.

70. Subparagraph 241(4)(d)(vi.1) of the Act is replaced by the following:

(vi.1) to an official of the Department of Natural Resources solely for the purpose of determining whether property is prescribed energy conservation property or whether an outlay or expense is a Canadian renewable and conservation expense,

71. (1) The definitions "balance-due day", "exempt income", "oil or gas well" and "tar sands" in subsection 248(1) of the Act are replaced by the following:

"balance-due  
day"  
« *date*  
*d'exigibilité*  
*du solde* »

"balance-due day" of a taxpayer for a taxation year means,

(a) where the taxpayer is a trust, the day that is 90 days after the end of the year,

(b) where the taxpayer is an individual who died after October in the year and before May in the following taxation year, the day that is 6 months after the day of death,

(c) in any other case where the taxpayer is an individual, April 30 in the following taxation year, and

(d) where the taxpayer is a corporation, the day on or before which the corporation is required under section 157 to pay the remainder of its tax payable under Part I for the year or would be so required if such a remainder were payable;

"exempt income"  
« *revenu*  
*exonéré* »

"exempt income" means property received or acquired by a person in such circumstances that it is, because of any provision of Part I, not included in computing the person's income, but does not include a dividend on a share or a support amount (as defined in subsection 56.1(4));

"oil or gas  
well"

« *puits de  
pétrole ou de  
gaz* »

"oil or gas well" means any well (other than an exploratory probe or a well drilled from below the surface of the earth) drilled for the purpose of producing petroleum or natural gas or of determining the existence, location, extent or quality of a natural accumulation of petroleum or natural gas, but, for the purpose of applying sections 13 and 20 and any regulations made for the purpose of paragraph 20(1)(a) in respect of property acquired after March 6, 1996, does not include a well for the extraction of material from a deposit of bituminous sands or oil shales;

"tar sands"  
« *sables  
asphaltiques* »

"tar sands" means bituminous sands or oil shales extracted, otherwise than by a well, from a mineral resource, but, for the purpose of applying sections 13 and 20 and any regulations made for the purpose of paragraph 20(1)(a) in respect of property acquired after March 6, 1996, includes material extracted by a well from a deposit of bituminous sands or oil shales;

**(2) Paragraph (c) of the definition "mineral resource" in subsection 248(1) of the Act is replaced by the following:**

(c) a bituminous sands deposit or oil shale deposit, or

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

"bituminous  
sands"  
« *sables  
bitumineux* »

"bituminous sands" means sands or other rock materials containing a naturally occurring viscous mixture that is composed primarily of hydrocarbons heavier than pentane, that, in its natural state, cannot flow to a well and from which, in its natural state, the hydrocarbons cannot be extracted by naturally occurring reservoir forces, conventional mechanical pumping methods or conventional physical pumping methods;

"business  
limit"  
« *plafond des  
affaires* »

"business limit" of a corporation for a taxation year means the amount determined under section 125 to be its business limit for the year;

"Canadian field processing"  
« *traitement préliminaire au Canada* »

"Canadian field processing" means, except as otherwise prescribed,

(a) the processing in Canada of raw natural gas at a field separation and dehydration facility,

(b) the processing in Canada of raw natural gas at a natural gas processing plant to any stage that is not beyond the stage of natural gas that is acceptable to a common carrier of natural gas,

(c) the processing in Canada of hydrogen sulphide derived from raw natural gas to any stage that is not beyond the marketable sulphur stage,

(d) the processing in Canada of natural gas liquids, at a natural gas processing plant where the input is raw natural gas derived from a natural accumulation of natural gas, to any stage that is not beyond the marketable liquefied petroleum stage or its equivalent,

(e) the processing in Canada of crude oil (other than heavy crude oil recovered from an oil or gas well or a tar sands deposit) recovered from a natural accumulation of petroleum to any stage that is not beyond the crude oil stage or its equivalent, and

(f) prescribed activities

and, for the purposes of paragraphs (b) to (d),

(g) gas is not considered to cease to be raw natural gas solely because of its processing at a field separation and dehydration facility, and

(h) the part, if any, of a natural gas processing plant that is devoted primarily to the recovery of ethane is not considered to be part of the plant;

"controlled foreign affiliate"  
« *société*

*étrangère  
affiliée  
contrôlée »*

"controlled foreign affiliate" has the meaning assigned by subsection 95(1);

"designated  
insurance  
property"  
« *bien  
d'assurance  
désigné »*

"designated insurance property" has the meaning assigned by subsection 138(12);

"registered  
labour-  
sponsored  
venture capital  
corporation"  
« *société  
agrée à  
capital  
de risque de  
travailleurs »*

"registered labour-sponsored venture capital corporation" means a corporation that was registered under subsection 204.81(1), the registration of which has not been revoked;

"specified  
future tax  
consequence"  
« *conséquence  
fiscale future  
déterminée »*

"specified future tax consequence" for a taxation year means

(a) the consequence of the deduction or exclusion of an amount referred to in paragraph 161(7)(a), and

(b) the consequence of a reduction under subsection 66(12.73) of a particular amount purported to be renounced by a corporation after the beginning of the year to a person or partnership under subsection 66(12.6) or (12.601) because of the application of subsection 66(12.66), determined as if the purported renunciation would, but for subsection 66(12.73), have been effective only where



- (i) the purported renunciation occurred in January, February or March of a calendar year,
- (ii) the effective date of the purported renunciation was the last day of the preceding calendar year,
- (iii) the corporation agreed in that preceding calendar year to issue a flow-through share to the person or partnership,
- (iv) the particular amount does not exceed the amount, if any, by which the consideration for which the share is to be issued exceeds the total of all other amounts purported by the corporation to have been renounced under subsection 66(12.6) or (12.601) in respect of that consideration,
- (v) paragraphs 66(12.66)(c) and (d) are satisfied with respect to the purported renunciation, and
- (vi) the form prescribed for the purpose of subsection 66(12.7) in respect of the purported renunciation is filed with the Minister before May of the calendar year;

**(4) Subsection 248(25) of the Act is replaced by the following:**

Beneficially  
interested

(25) For the purposes of this Act, a person or partnership beneficially interested in a particular trust includes any person or partnership that has any right (whether immediate or future, whether absolute or contingent or whether conditional on or subject to the exercise of any discretionary power by any person or persons) as a beneficiary under a trust to receive any of the income or capital of the particular trust either directly from the particular trust or indirectly through one or more other trusts.

(5) The definition "balance-due day" in subsection 248(1) of the Act, as enacted by subsection (1), and the definition "designated insurance property" in subsection 248(1) of the Act, as enacted by subsection (3), apply to the 1996 and subsequent taxation years.

(6) The definition "exempt income" in subsection 248(1) of the Act, as enacted by subsection (1), the definition "Canadian field processing" in subsection 248(1) of the Act, as enacted by subsection (3), and subsection (4) apply after 1996.

(7) The definitions "oil or gas well" and "tar sands" in subsection 248(1) of the Act, as enacted by subsection (1), the definition "bituminous sands" in subsection 248(1) of the Act, as enacted by subsection (3), and subsection (2) apply after March 6, 1996.

(8) The definition "business limit" in subsection 248(1) of the Act, as enacted by subsection (3), applies after May 23, 1985.

(9) The definitions "controlled foreign affiliate" and "registered labour-sponsored venture capital corporation" in subsection 248(1) of the Act, as enacted by subsection (3), apply after 1995.

(10) The definition "specified future tax consequence" in subsection 248(1) of the Act, as enacted by subsection (3), applies to the 1996 and subsequent taxation years and, for greater certainty, for taxation years that ended before 1996, there are deemed to be no specified future tax consequences.

## PART II

R.S., c. 2 (5th  
Supp.); 1994,  
cc. 7, 21;  
1995, cc. 3, 21

### INCOME TAX APPLICATION RULES

**72. (1) Paragraph 26(9.4)(b) of the *Income Tax Application Rules* is replaced by the following:**

(b) clause 53(2)(c)(i)(B) of the amended Act shall be read as follows:

"(B) paragraphs 12(1)(o) and (z.5), 18(1)(m) and 20(1)(v.1), section 31, subsection 40(2), section 55 and subsections 69(6) and (7) of this Act, paragraphs 20(1)(gg) and 81(1)(r) and (s) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, and the provisions of the *Income Tax Application Rules* relating to section 14, and"

(2) Subsection (1) applies for the purpose of computing the adjusted cost base of property after 1996.

**73. (1) Subsections 29(6) to (8) of the Rules are repealed.**

(2) Subsection (1) applies to renunciations made

(a) after 2006, in respect of a payment or loan received by a joint exploration corporation before March 6, 1996;

(b) after 2006, in respect of a payment or loan received by a joint exploration corporation after March 5, 1996 under an agreement in writing made

(i) by the corporation before March 6, 1996, or

(ii) by another corporation before March 6, 1996, where

(A) the other corporation controlled the corporation at the time the agreement was made, or

(B) the other corporation undertook, at the time the agreement was made, to form the corporation; and

(c) after March 5, 1996, in any other case.

### PART III

1994, c. 8

#### AN ACT TO AMEND THE INCOME TAX ACT

74. (1) Subsection 4(5) of *An Act to Amend the Income Tax Act*, being chapter 8 of the Statutes of Canada, 1994, is replaced by the following:

(5) Subsections (1), (2) and (4) apply to taxation years that end after December 2, 1992.

(6) Subsection (3) applies to taxation years of a taxpayer that end after December 2, 1992, except that it does not apply to taxation years of a taxpayer that began before March 6, 1996 with respect to rental expenses incurred pursuant to a written lease agreement renewed, extended or entered into before June 18, 1987 by the taxpayer or a person with whom the taxpayer did not deal at arm's length at the time the lease was renewed, extended or entered into.

(2) Subsection (1) is deemed to have come into force on May 12, 1994.

### PART IV

#### CONDITIONAL AMENDMENTS

Bill C-69

75. (1) If Bill C-69, introduced in the second session of the thirty-fifth Parliament and entitled *An Act to amend the Income Tax Act, the Income Tax Application Rules, the Bankruptcy and Insolvency Act, the Canada Pension Plan, the Children's Special Allowances Act, the Cultural Property Export and Import Act, the Customs Act, the Employment Insurance Act, the Excise Tax Act, the Old Age Security Act, the Tax Court of Canada Act, the Tax Rebate Discounting Act, the Unemployment Insurance Act, the Western Grain*

**Transition Payments Act and certain Acts related to the Income Tax Act, is assented to, then,**

**(a) the portion of subsection 66(12.66) of the *Income Tax Act*, as enacted by subsection 31(4) of that Act, is replaced by the following:**

for the purpose of subsection (12.6) or for the purposes of subsection (12.601) and paragraph (12.602)(b), as the case may be, the corporation is deemed to have incurred the expenses on the last day of that preceding year.

**(b) subparagraph 115(1)(b)(iii) of the *Income Tax Act*, as enacted by subsection 58(1) of that Act, is replaced by the following:**

(iii) where the non-resident person is an insurer, any capital property that is its designated insurance property for the year,

**(c) the description of C in section 127 of that Act is replaced by the following:**

C is the number of days in the year that are after February 25, 1992 and before 1999; and

**(d) paragraph 219(1)(k) of the *Income Tax Act*, as enacted by subsection 139(1) of that Act, is replaced by the following:**

(k) the portion of the total of all amounts, each of which is an amount by which the corporation's base amount is increased because of paragraph 12(1)(o) or (z.5) or 18(1)(1.1) or (m) or subsection 69(6) or (7), that is not deductible under paragraph (h) or (j), and

and

**(e) section 23 of this Act is repealed.**

(2) Paragraph (1)(a) applies to expenses incurred after 1996 except expenses incurred in January or February of 1997 in respect of an agreement that was made in 1995.

(3) Paragraphs (1)(b) and (e) apply to the 1996 and subsequent taxation years.

(4) Paragraph (1)(c) comes into force or is deemed to have come into force on the day that that Act is assented to.

(5) Paragraph (1)(d) applies to taxation years that begin after 1996.