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# NATIONAL ASSEMBLY

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SECOND SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 15

(2006, chapter 13)

## **An Act to amend the Taxation Act and other legislative provisions**

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**Introduced 9 May 2006**

**Passage in principle 30 May 2006**

**Passage 9 June 2006**

**Assented to 13 June 2006**

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## EXPLANATORY NOTES

*This bill amends various legislation to give effect to budgetary measures announced in the Budget Speeches delivered on 21 April 2005 and 23 March 2006 and in Information Bulletins published by the Ministère des Finances in 2004 and 2005.*

*The bill amends the Tobacco Tax Act to provide for various measures to curb tobacco contraband.*

*The bill amends the Taxation Act to introduce, amend or repeal certain fiscal measures specific to Québec. In particular, the amendments concern*

*(1) the deductibility of certain expenditures related to the use of part of an individual's domicile as a private residential home;*

*(2) the granting of a refundable tax credit for home support for an elderly person following a person's death;*

*(3) the revaluation of the work premium reduction thresholds and child assistance payment reduction thresholds in light of the implementation of the parental insurance plan;*

*(4) adjustments to the refundable tax credit for child assistance;*

*(5) the eligibility conditions of the tax credit for tuition fees and examination fees;*

*(6) the exemption of a capital gain resulting from the establishment of a servitude in respect of an immovable;*

*(7) the relaxation of acquisition-of-control rules regarding the abolition of fiscal measures relating to the carrying out of activities in a designated site;*

*(8) the introduction of the SME growth stock plan and the termination of the stock savings plan;*

*(9) refundable tax credits for scientific research and experimental development, to increase fiscal assistance to SMEs and to require that a person applying for the tax credits carry on a business in Québec;*

*(10) the redefinition of the refundable design tax credit;*

*(11) the introduction of a refundable tax credit for major employment-generating projects;*

*(12) the issuance of a certificate by the Kativik Regional Government for the purposes of the refundable tax credit for on-the-job training periods, and the extension of that tax credit;*

*(13) adjustments to refundable tax credits in the cultural sector that concern the receipt of assistance, benefits or advantages attributable to a labour expenditure relating to a service contract; and*

*(14) the introduction, in the computation of the paid-up capital of a corporation subject to the tax on capital, of a deduction in relation to new automotive equipment that the corporation has in stock for the purpose of resale.*

*The bill amends the Act respecting the Ministère du Revenu to*

*(1) prohibit a person from carrying on an activity relating to a computer program designed to hide sales, and define any contravention of the stated prohibition as an offence; and*

*(2) limit entitlement to a refund under a fiscal law when an order is made in accordance with the Companies' Creditors Arrangement Act.*

*The bill amends the Act respecting the Régie de l'assurance maladie du Québec to increase the level of exemptions taken into consideration in establishing the premium payable under the prescription drug insurance plan.*

*The bill amends the Act respecting Québec business investment companies in light of the moratorium imposed on the plan applicable to such companies.*

*The bill makes amendments to the Taxation Act similar to amendments made to the Canada Income Tax Act by Bill C-33 (S.C., 2005, chapter 19), assented to on 13 May 2005, and by Bill C-43 (S.C., 2005, chapter 30), assented to on 29 June 2005. The bill thus gives effect to harmonization measures announced in the Budget Speeches delivered on 30 March 2004 and 21 April 2005. In particular, the amendments concern*

*(1) the general anti-avoidance rule; and*

*(2) the exclusion of clearly marked emergency medical response vehicles from the definition of “automobile”.*

*Lastly, the bill amends other legislation to make various technical, consequential and terminology-related amendments.*

**LEGISLATION AMENDED BY THIS BILL:**

- Act respecting international financial centres (R.S.Q., chapter C-8.3);
- Act to foster the development of manpower training (R.S.Q., chapter D-7.1);
- Tobacco Tax Act (R.S.Q., chapter I-2);
- Taxation Act (R.S.Q., chapter I-3);
- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);
- Act respecting the Régie de l’assurance maladie du Québec (R.S.Q., chapter R-5);
- Act respecting Québec business investment companies (R.S.Q., chapter S-29.1);
- Act respecting the Québec sales tax (R.S.Q., chapter T-0.1);
- Act to amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions (1995, chapter 63);
- Budget Act giving effect to the Budget Speech delivered on 21 April 2005 and to certain other budget statements (2005, chapter 38).

## Bill 15

### AN ACT TO AMEND THE TAXATION ACT AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

#### ACT RESPECTING INTERNATIONAL FINANCIAL CENTRES

**1.** (1) Section 1 of the Act respecting international financial centres (R.S.Q., chapter C-8.3) is amended by replacing “within the territory of Ville de Montréal” by “within the urban agglomeration of Montréal”.

(2) Subsection 1 has effect from 1 January 2006.

**2.** (1) Section 2 of the Act is amended by replacing “within the territory of Ville de Montréal” in the first paragraph by “within the urban agglomeration of Montréal”.

(2) Subsection 1 has effect from 1 January 2006.

**3.** (1) Section 4 of the Act, amended by section 1 of chapter 23 of the statutes of 2005, is again amended by inserting the following definition in alphabetical order:

““urban agglomeration of Montréal” means the urban agglomeration described in section 4 of the Act respecting the exercise of certain municipal powers in certain urban agglomerations (chapter E-20.001).”

(2) Subsection 1 has effect from 1 January 2006.

**4.** (1) Section 6 of the Act, amended by section 6 of chapter 38 of the statutes of 2005, is again amended, in the first paragraph,

(1) by replacing “within the territory of Ville de Montréal” in subparagraph 3 by “within the urban agglomeration of Montréal”;

(2) by replacing “within the territory of Ville de Montréal” in subparagraph 4 by “within the urban agglomeration of Montréal”.

(2) Subsection 1 has effect from 1 January 2006.

**5.** (1) Section 7 of the Act, amended by section 3 of chapter 23 of the statutes of 2005, is again amended

(1) by replacing the portion before paragraph 1 by the following:

**“7.** In this Act, subject to sections 7.1 and 7.2, “qualified international financial transaction” means”;

(2) by replacing “within the territory of Ville de Montréal” in paragraph 20 by “within the urban agglomeration of Montréal”.

(2) Paragraph 1 of subsection 1 has effect from 1 January 2005.

(3) Paragraph 2 of subsection 1 has effect from 1 January 2006.

**6.** (1) The Act is amended by inserting the following section after section 7.1, enacted by section 4 of chapter 23 of the statutes of 2005:

**“7.2.** A qualified international financial transaction does not include such a transaction carried out by a corporation under a contract in respect of which a qualification certificate, certifying that the contract is an eligible contract for the purposes of Division II.6.0.1.8 of Chapter III.1 of Title III of Book IX of Part I of the Taxation Act (chapter I-3), has been issued to the corporation.”

(2) Subsection 1 has effect from 1 January 2005.

**7.** (1) Section 9 of the Act is amended by replacing “within the territory of Ville de Montréal” by “within the urban agglomeration of Montréal”.

(2) Subsection 1 has effect from 1 January 2006.

**8.** Section 14 of the Act is amended by replacing the second paragraph by the following paragraph:

“The qualification certificate is valid only for the period mentioned in the qualification certificate.”

**9.** (1) Section 53 of the Act, replaced by section 12 of chapter 38 of the statutes of 2005, is amended by replacing “within the territory of Ville de Montréal” in the portion before paragraph 1 by “within the urban agglomeration of Montréal”.

(2) Subsection 1 has effect from 1 January 2006.

**10.** (1) Section 68 of the Act is amended by replacing “within the territory of Ville de Montréal” in paragraph 1 by “within the urban agglomeration of Montréal”.

(2) Subsection 1 has effect from 1 January 2006.

**11.** (1) The Act is amended by inserting the following section after section 69.1.1, enacted by section 15 of chapter 23 of the statutes of 2005:

“**69.1.2.** Despite section 69, the reference period of an individual in relation to an employment the individual holds with a corporation does not include any part of the period described in that section that is covered by a qualification certificate issued to the corporation in respect of the individual, certifying that the individual qualifies as an eligible employee for the purposes of Division II.6.0.1.8 of Chapter III.1 of Title III of Book IX of Part I of the Taxation Act (chapter I-3).”

(2) Subsection 1 has effect from 1 January 2005.

**12.** (1) Section 73 of the Act, amended by section 18 of chapter 23 of the statutes of 2005, is again amended

(1) by replacing the portion before paragraph 1 by the following:

“**73.** For the purposes of section 71, a particular period included in a particular calendar year and in respect of which the following conditions are satisfied, except any part of the particular period that is covered by a qualification certificate issued to a particular corporation or partnership in respect of an individual, certifying that the individual qualifies as an eligible employee for the purposes of Division II.6.0.1.8 of Chapter III.1 of Title III of Book IX of Part I of the Taxation Act (chapter I-3), is a qualifying period in respect of the individual in relation to the particular corporation or partnership:”;

(2) by replacing “within the territory of Ville de Montréal” in subparagraph *b* of paragraph 1 by “within the urban agglomeration of Montréal”.

(2) Paragraph 1 of subsection 1 has effect from 1 January 2005.

(3) Paragraph 2 of subsection 1 has effect from 1 January 2006.

#### ACT TO FOSTER THE DEVELOPMENT OF MANPOWER TRAINING

**13.** (1) Section 4 of the Act to foster the development of manpower training (R.S.Q., chapter D-7.1) is amended by replacing “Salary or wages” in the second paragraph by “Wages”.

(2) Subsection 1 applies from the year 2006.

**14.** (1) Section 15 of the Act is amended by replacing “salary or wages” by “wages”.

(2) Subsection 1 applies from the year 2006.

**15.** (1) The schedule to the Act, amended by section 27 of chapter 38 of the statutes of 2005, is again amended

(1) by replacing “a salary or wages” in the definition of “employee” in subsection 2 by “wages”;

(2) by replacing “salary or wages” by “wages” wherever it appears in the following provisions:

— subsection 4;

— the portion of subsection 5 before paragraph 1;

(3) by replacing “salaries and wages” in paragraph 2 of subsection 6 by “wages”.

(2) Subsection 1 applies from the year 2006.

## TOBACCO TAX ACT

**16.** The Tobacco Tax Act (R.S.Q., chapter I-2) is amended by inserting the following section after section 7.1:

**“7.1.1.** No person may sell or offer to sell tobacco at retail for a price that is lower than the aggregate, in respect of the tobacco, of the excise duty applicable under the Excise Act, 2001 (Statutes of Canada, 2002, chapter 22), the tobacco tax applicable under this Act and the tax applicable under Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) computed on the aggregate of the excise duty and the tobacco tax.”

**17.** The Act is amended by inserting the following section after section 9.2:

**“9.2.1.** No person may purchase tobacco at retail in Québec for a price that is lower than the aggregate, in respect of the tobacco, of the excise duty applicable under the Excise Act, 2001 (Statutes of Canada, 2002, chapter 22), the tobacco tax applicable under this Act and the tax applicable under Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) computed on the aggregate of the excise duty and the tobacco tax.”

**18.** The Act is amended by inserting the following section after section 13.1:

**“13.1.1.** A package of tobacco referred to in section 13.1 is deemed not to be identified in accordance with that section if it is counterfeit tobacco.

For the purposes of the first paragraph, “counterfeit tobacco” includes

(a) tobacco the package of which bears or on which is reproduced or imitated the trademark, trade name or any other distinguishing guise that can reasonably be associated with another tobacco product, without the authorization of the owner of the trademark, trade name or other distinguishing guise; and



(b) tobacco the package of which bears the identification mark provided for in section 13.1 if the identification mark has not been affixed by a person holding a valid manufacturer's or importer's permit."

**19.** Section 14 of the Act is amended

(1) by replacing the portion after paragraph *b* by the following:

"is guilty of an offence and is liable, for each day that the omission continues, to a fine of not less than \$300 and, for a subsequent offence within five years, to a fine of not less than \$1,000.";

(2) by replacing paragraph *b* by the following paragraph:

"(b) being a mandatary of the Minister, refuses or neglects

i. to collect the tax provided for in section 8 at the time of a retail sale that is not made in contravention of section 7.1.1,

ii. to render an account or remit the tax provided for in section 8, or

iii. to collect, report or remit the amount provided for in section 17.2,".

**20.** Section 14.1 of the Act, amended by section 64 of chapter 29 of the statutes of 2005, is again amended by replacing "\$2,000 nor more than \$25,000" in the portion after paragraph *f* by "\$3,000 nor more than \$37,500 and, for a subsequent offence within five years, to a fine of not less than \$10,000 nor more than \$125,000".

**21.** Section 14.2 of the Act, amended by section 18 of chapter 1 of the statutes of 2005, is replaced by the following section:

**"14.2.** Every person who

(a) contravenes section 6, 7, 7.0.1, 7.1.1 or 7.9,

(b) sells, delivers or is in possession of tobacco intended for retail sale in Québec and contained in a package which is not identified in accordance with section 13.1,

(c) uses a registration certificate provided for in section 3 or a permit issued in the name of another person,

(d) obtains or attempts to obtain, by means of false or misleading statements, a permit issued under this Act, or

(e) uses, in Québec, a case not identified in accordance with section 17.10 for the sale, delivery, transport or storage of packages of tobacco,

is guilty of an offence and is liable to a fine of not less than the greater of \$3,000 and, where applicable, three times the tax that would have been payable under this Act, had the tobacco involved in the offence been sold by retail sale in Québec, and not more than \$750,000.

The fine for a subsequent offence within five years is not less than the greater of \$10,000 and, where applicable, three times the tax that would have been payable under this Act, had the tobacco involved in the offence been sold by retail sale in Québec, and not more than \$2,500,000.

In addition to the fine provided for in the first and second paragraphs, the court may, despite article 231 of the Code of Penal Procedure (chapter C-25.1), condemn the person to imprisonment for a term of not more than two years.”

**22.** Section 14.3 of the Act, enacted by section 39 of chapter 38 of the statutes of 2005, is replaced by the following section:

“**14.3.** Every person who contravenes section 9.2 or 9.2.1 is guilty of an offence and is liable to a fine of not less than \$300 nor more than \$7,500 and, for a subsequent offence within five years, to a fine of not less than \$1,000 nor more than \$25,000.”

**23.** Section 15 of the Act, amended by section 40 of chapter 38 of the statutes of 2005, is again amended by replacing “\$200 and not more than \$5,000” by “\$300 nor more than \$7,500 and, for a subsequent offence within five years, to a fine of not less than \$1,000 nor more than \$25,000”.

#### TAXATION ACT

**24.** (1) Section 1 of the Taxation Act (R.S.Q., chapter I-3), amended by section 20 of chapter 1 of the statutes of 2005, by section 30 of chapter 23 of the statutes of 2005 and by section 44 of chapter 38 of the statutes of 2005, is again amended, in the definition of “automobile”,

(1) by inserting the following paragraph after paragraph *a*:

“(a.1) a clearly marked emergency medical response vehicle that is used, in connection with or in the course of an individual’s office or employment with an emergency medical response or ambulance service, to carry emergency medical equipment together with one or more emergency medical attendants or paramedics,”;

(2) by replacing “aux fins” in paragraph *c* in the French text by “pour l’application”.

(2) Paragraph 1 of subsection 1 applies from the taxation year 2005.

**25.** Section 8 of the Act, amended by section 24 of chapter 1 of the statutes of 2005, is again amended by replacing “Canadian Armed Forces” in paragraph *b* by “Canadian Forces”.

**26.** (1) Section 21.1 of the Act, amended by section 31 of chapter 23 of the statutes of 2005 and by section 50 of chapter 38 of the statutes of 2005, is again amended

(1) by replacing “sections 6.2, 21.2 to 21.3.1” in the first paragraph by “sections 6.2, 21.2 to 21.3.3” and by replacing “1029.8.36.171.3, 1029.8.36.171.4 and 1137.8” in the same paragraph by “1029.8.36.171.3 and 1029.8.36.171.4”;

(2) by inserting the following paragraph after the first paragraph:

“Subject to section 21.3.7, sections 21.3.2 and 21.3.3 apply in respect of the control of a corporation for the purposes of section 737.18.9.2, subparagraph 2 of subparagraph *i* of subparagraph *b* of the second paragraph of section 771.8.5, paragraphs *d* and *e* of section 771.13, paragraph *c* of the definition of “qualified corporation” in the first paragraph of sections 1029.8.36.0.3.46 and 1029.8.36.0.3.60, subparagraph *iv* of paragraph *b* of the definition of “specified corporation” in the first paragraph of section 1029.8.36.0.17, subparagraph *b* of the first paragraph of sections 1029.8.36.0.21.2, 1029.8.36.0.22.1 and 1029.8.36.0.25.2, paragraph *d* of the definition of “excluded corporation” in the first paragraph of section 1029.8.36.0.38 and paragraph *c* of the definition of “qualified corporation” in the first paragraph of sections 1029.8.36.72.1, 1029.8.36.72.29, 1029.8.36.72.56 and 1029.8.36.72.83.”;

(3) by replacing “1029.8.36.171.3, 1029.8.36.171.4 and 1137.8” in the third paragraph by “1029.8.36.171.3 and 1029.8.36.171.4”.

(2) Subsection 1 has effect from 12 June 2003. However, when the second paragraph of section 21.1 of the Act applies before 31 March 2004, it reads as if

(1) “Subject to section 21.3.7, sections” was replaced by “Sections”;

(2) “paragraphs *d* and *e* of section 771.13” was replaced by “paragraph *d* of section 771.13”; and

(3) “, 1029.8.36.0.22.1” was struck out.

**27.** (1) The Act is amended by inserting the following sections after section 21.3.1:

**“21.3.2.** A person or group of persons is deemed not to have acquired control of a corporation at any time after 11 June 2003 if a significant shareholder, or a significant group of shareholders, of the corporation owns, at that time, shares of the capital stock of the corporation that give the shareholder or group 50% or more of the votes that could be cast under all circumstances at the annual meeting of shareholders of the corporation.

**“21.3.3.** A person or group of persons deemed not to have acquired control of a corporation at any time after 11 June 2003 because of the application of section 21.3.2, is deemed to have acquired control of that corporation at a later time when, for the first time, no significant shareholder, or significant group of shareholders, of the corporation owns shares of the capital stock of the corporation that give the shareholder or group 50% or more of the votes that could be cast under all circumstances at the annual meeting of shareholders of the corporation.

**“21.3.4.** For the purposes of sections 21.3.2 to 21.3.6,

(a) a person who owned, immediately before 12 June 2003, 25% or more in vote and value of the shares of the capital stock of a corporation is a significant shareholder of the corporation at any time after 11 June 2003;

(b) a group of persons in respect of which the following conditions are satisfied is a significant group of shareholders of a corporation at any given time after 11 June 2003:

i. immediately before 12 June 2003, the group owned 25% or more in vote and value of the shares of the capital stock of the corporation, and

ii. at the given time, each member of the group owned 10% or more in vote and value of the shares of the capital stock of the corporation;

(c) two or more persons each of whom owns shares of the capital stock of a corporation is a group of persons in respect of that corporation; and

(d) the percentage, in vote and value, of the shares of the capital stock of a corporation owned by a person or group of persons at any given time corresponds to the lesser of

i. the proportion, expressed as a percentage, that, at that time, the number of votes that could be cast under all circumstances at the annual meeting of shareholders of the corporation given by the shares of the capital stock of the corporation owned by the person or group of persons is of the number of votes of that kind given by all the issued shares of that capital stock, and

ii. the proportion, expressed as a percentage, that, at that time, the fair market value of the shares of the capital stock of the corporation owned by the person or group of persons is of the fair market value of all the issued shares of that capital stock.

**“21.3.5.** For the purpose of determining, in accordance with section 21.3.4, whether a person or group of persons is a significant shareholder, or a significant group of shareholders, as the case may be, of a particular corporation,

(a) subject to the second paragraph, the rules set out in paragraphs *d* to *f* of section 21.20.2 apply in respect of the ownership of the shares of the capital stock of the particular corporation;

(b) another corporation, a partnership or a trust is deemed not to own, or not to be deemed to own because of the application of subparagraph *a*, a share of the capital stock of the particular corporation that is deemed to be owned, because of the application of that subparagraph, by

i. a shareholder of the other corporation,

ii. a member of the partnership, or

iii. a beneficiary under the trust or, if it is a trust referred to in section 467, the person referred to in that section;

(c) a person is deemed to have owned, immediately before 12 June 2003, a share the person acquired after 11 June 2003 from another person with whom the person was not dealing at arm's length, if that other person owned the share immediately before 12 June 2003;

(d) if, between 11 June 2003 and 1 July 2004, the particular corporation was the subject of an acquisition of control that was the result of a transaction to which any of the provisions referred to in the second paragraph of section 21.1 refers, the transaction is deemed to have been completed on 11 June 2003 for the purpose of applying sections 21.3.2 and 21.3.3 in respect of a subsequent acquisition of control of the particular corporation for the purposes of that provision;

(e) a person is deemed to have exercised, on 11 June 2003, one or more rights referred to in paragraph *b* of section 20 that the person exercised after that date but had acquired before 12 June 2003; and

(f) a person is deemed to have performed, on 11 June 2003, one or more obligations described in the third paragraph that the person performed after that date but had contracted before 12 June 2003.

Despite subparagraph 1 of subparagraph *i* of paragraph *f* of section 21.20.2 and subparagraphs *ii* and *iv* of that paragraph *f*, the number of shares of the capital stock of a corporation that the members of a group who are beneficiaries under a trust or the members of a group who are persons referred to in section 467 in respect of a trust referred to in that section are deemed to own because of the application of subparagraph *a* of the first paragraph to each of them, may not be greater than the number of shares of that capital stock that are owned, or deemed to be owned because of the application of that subparagraph *a*, by the trust.

An obligation to which subparagraph *f* of the first paragraph refers is an obligation whose performance puts the person who contracted it in the same

position in relation to the control of a corporation as that in which the person would be if the person had acquired and exercised any of the rights referred to in paragraph *b* of section 20.

**“21.3.6.** In determining, for the purposes of sections 21.3.2 and 21.3.3, the number of shares of the capital stock of a particular corporation owned by a significant shareholder, or a significant group of shareholders, of the particular corporation, subparagraph *a* of the first paragraph of section 21.3.5 applies, but with reference to the following rules:

(a) despite paragraph *d* of section 21.20.2,

i. a shareholder of another corporation is deemed to own all the shares of the capital stock of the particular corporation that are owned, or deemed to be owned because of the application of this section, by the other corporation, if the shares of the capital stock of the other corporation owned by the shareholder give the shareholder 50% or more of the votes that could be cast under all circumstances at the annual meeting of shareholders of the other corporation, and

ii. the presumption in subparagraph i applies to a particular group consisting of members of a significant group of shareholders of the particular corporation who are shareholders of another corporation, if the shares of the capital stock of the other corporation owned by the particular group give the particular group 50% or more of the votes that could be cast under all circumstances at the annual meeting of shareholders of the other corporation;

(b) a person who is a shareholder of more than one corporation, in this paragraph referred to as the “intermediary corporations”, may not be deemed to own a number of shares of the capital stock of the particular corporation that are owned, or deemed to be owned because of the application of this section, by another corporation of which the intermediary corporations are shareholders that is greater than the number of those shares that the person would be deemed to own if this section applied to each intermediary corporation without reference to the rule set out in subparagraph i of paragraph *a*; and

(c) if a significant group of shareholders of the particular corporation includes persons each of whom is deemed to own, because of the application of this section, shares of the capital stock of the particular corporation that are owned by another corporation, the total number of those shares that those persons are deemed to own may not be greater than the number of shares of that capital stock that the other corporation owns.

**“21.3.7.** When sections 21.3.2 and 21.3.3 apply in respect of the control of a corporation for the purposes of paragraph *e* of section 771.13 and subparagraph *b* of the first paragraph of section 1029.8.36.0.22.1,

(a) sections 21.3.2 to 21.3.5 are to be read as if “11 June 2003” was replaced wherever it appears by “30 March 2004”; and

(b) section 21.3.4 and the first paragraph of section 21.3.5 are to be read as if “12 June 2003” was replaced wherever it appears by “31 March 2004”.”

(2) Subsection 1 has effect from 12 June 2003, except when it enacts section 21.3.7 of the Act, in which case it has effect from 31 March 2004.

**28.** (1) Section 99 of the Act is amended by replacing the portion of paragraph *f* before subparagraph *i* by the following:

“(f) where any part of a self-contained domestic establishment, in this paragraph referred to as the “work space”, in which an individual resides is the principal place of business of the individual or a partnership of which the individual is a member, or is used exclusively for the purpose of earning income from a business and on a regular and continuous basis for meeting clients, customers or patients of the individual or partnership in the course of the business, as the case may be, except a work space that relates to the operation of a private residential home or a tourist accommodation establishment that is a tourist home, bed and breakfast establishment or participating establishment in a hospitality village, within the meaning of the regulations made under the Act respecting tourist accommodation establishments (chapter E-14.2), where the individual or partnership holds a classification certificate of the appropriate class to which the tourist accommodation establishment belongs, issued under that Act, or is a participant in a hospitality village covered by such a classification certificate, the following rules apply:”.

(2) Subsection 1 applies to a taxation year or fiscal period that ends after 21 April 2005.

**29.** (1) Section 175.5 of the Act is amended, in the second paragraph,

(1) by replacing subparagraph *b* by the following subparagraph:

“(b) an expenditure, other than an expenditure of a capital nature, made by the individual or partnership, that may reasonably be considered to relate to both the work space in connection with the operation of a tourist accommodation establishment that is a tourist home, bed and breakfast establishment or participating establishment in a hospitality village, within the meaning of the regulations made under the Act respecting tourist accommodation establishments (chapter E-14.2), and the part of the establishment, other than the work space, is deemed to be an expenditure relating solely to the work space if the individual or partnership holds a classification certificate of the appropriate class to which the tourist accommodation establishment belongs, issued under that Act, or is a participant in a hospitality village covered by such a classification certificate;”;

(2) by inserting the following subparagraph after subparagraph *b*:

“(b.1) an expenditure, other than an expenditure of a capital nature, made by the individual or partnership, that may reasonably be considered to relate to

both the work space in connection with the operation of a private residential home and the part of the establishment, other than the work space, is deemed to be an expenditure relating solely to the work space; and”.

(2) Subsection 1 applies to a taxation year or fiscal period that ends after 21 April 2005.

**30.** (1) The Act is amended by inserting the following section after section 225.2:

**“225.3.** For the purposes of this division, an expenditure is deemed to have been made by a taxpayer in Canada if the expenditure is made

(a) by the taxpayer in the course of a business carried on by the taxpayer in Canada; and

(b) for the prosecution of scientific research and experimental development in the exclusive economic zone of Canada, within the meaning of the Oceans Act (Statutes of Canada, 1996, chapter 31), or in the airspace above that zone or the seabed or subsoil below that zone.”

(2) Subsection 1 applies in respect of an expenditure made after 22 February 2005.

**31.** (1) Section 248 of the Act, amended by section 78 of chapter 1 of the statutes of 2005, is again amended

(1) by replacing subparagraph *c* of the first paragraph by the following subparagraph:

“(c) any transfer of the property to a trust or, where the property is property of a trust, any transfer of the property to any beneficiary under the trust, except as provided by subparagraphs *b* and *g* of the second paragraph; and”;

(2) by striking out subparagraph *c* of the second paragraph.

(2) Subsection 1 applies in respect of a disposition made after 31 December 2004.

**32.** Section 254.1 of the Act is amended by striking out “of Chapter III of Title IV of Book III” in the portion before subparagraph *a* of the first paragraph.

**33.** (1) The Act is amended by inserting the following section after section 254.1:

**“254.1.1.** For the purposes of section 254 and Divisions II to IV, other than section 259, if an individual encumbers a property that is the individual’s principal residence or a qualified farm property within the meaning of section 726.6 with a real servitude, the following rules apply:



(a) the establishment of the servitude is deemed to be a disposition under section 254 of a portion of the property so encumbered; and

(b) the portion of the adjusted cost base to the individual of the property immediately before the disposition that can reasonably be considered to be attributable to the servitude is deemed to be equal to zero.”

(2) Subsection 1 applies in respect of a real servitude established after 21 April 2005.

**34.** (1) Section 257 of the Act is amended by replacing subparagraph 3 of subparagraph i.1 of paragraph *n* by the following subparagraph:

“(3) where the trust was resident in Canada throughout its taxation year in which the amount became payable, that was designated by the trust to be payable to the beneficiary under section 667, that is, subject to section 257.4, equal to the amount designated by the trust to be payable to the beneficiary under section 668 or that is an assessable distribution within the meaning of subsection 1 of section 218.3 of the Income Tax Act;”.

(2) Subsection 1 has effect from 1 January 2005.

**35.** (1) The Act is amended by inserting the following section after section 271:

“**271.1.** If an individual encumbers a property that is the individual’s principal residence with a real servitude for the taxation year in which the servitude is established and the presumption in paragraph *a* of section 254.1.1 applies in respect of that property, the individual’s gain, for that taxation year, from the deemed disposition of the portion of the property so encumbered is deemed to be equal to zero.”

(2) Subsection 1 applies in respect of a real servitude established after 21 April 2005.

**36.** (1) Section 310 of the Act, amended by section 46 of chapter 23 of the statutes of 2005, is again amended by inserting “965.128,” after “965.20,”.

(2) Subsection 1 applies from the taxation year 2005.

**37.** (1) Section 311 of the Act, amended by section 84 of chapter 1 of the statutes of 2005, by section 47 of chapter 23 of the statutes of 2005 and by section 65 of chapter 38 of the statutes of 2005, is again amended by replacing paragraph *e.2* by the following paragraph:

“(e.2) earnings supplements, other than an amount attributable to child care expenses, provided under a project sponsored by a government or government agency in Canada to encourage an individual to obtain or keep employment or to carry on a business either alone or as a partner actively engaged in the business, otherwise than under a prescribed program;”.

(2) Subsection 1 applies from the taxation year 2000.

**38.** Section 336 of the Act, amended by section 87 of chapter 1 of the statutes of 2005 and by section 70 of chapter 38 of the statutes of 2005, is again amended by replacing “a contribution” in subparagraph *v* of paragraph *e* by “an assessment”.

**39.** (1) Section 502 of the Act is amended

(1) by replacing the portion before paragraph *a* by the following:

“**502.** If, at a particular time after 1971, a dividend becomes payable by a private corporation on a share of its capital stock and the corporation makes an election, at the latest at the particular time or, if it is earlier, on the day on which a portion of the dividend was paid, the following rules apply:”;

(2) by replacing “réputé être” in paragraph *a* in the French text by “réputé”.

(2) Paragraph 1 of subsection 1 has effect from 22 June 2005.

**40.** (1) The Act is amended by inserting the following sections after section 503:

“**503.0.0.1.** For the purposes of section 502, an election that is filed after the time provided for in that section is deemed to have been filed on or before that time if

(a) the election is made in accordance with section 503;

(b) an estimate by the corporation of the penalty under section 503.0.0.2 is paid when the election is filed; and

(c) the directors or any other person legally entitled to administer the affairs of the corporation has previously authorized the election.

“**503.0.0.2.** The penalty referred to in paragraph *b* of section 503.0.0.1 is equal to the lesser of

(a) 1% per year of the amount of the dividend referred to in section 502 for each month or part of a month during the period that begins on the day on which the time provided for in section 502 for making the election expires and that ends on the day on which the election to which section 503.0.0.1 applies is filed with the Minister; and

(b) an amount equal to the product obtained by multiplying \$500 by the proportion that the number of months included, in whole or in part, in the period described in paragraph *a* is of 12.

**“503.0.0.3.** The Minister shall examine with dispatch the election to which section 503.0.0.1 applies, determine the penalty payable and send a notice of assessment to the corporation, which shall pay the unpaid balance of the penalty to the Minister without delay.”

(2) Subsection 1 applies in respect of an election filed after 22 June 2005.

**41.** (1) Section 578.1 of the Act is amended by replacing paragraph *f* by the following paragraph:

“(f) the taxpayer makes a valid election under subsection 2 of section 86.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), to have the provisions of that section apply to the distribution and provides to the Minister information satisfactory to the Minister establishing the elements described in the second paragraph of section 578.3.”

(2) Subsection 1 applies in respect of a distribution made after 31 December 2004.

**42.** (1) Section 657 of the Act is amended by replacing paragraph *b* by the following paragraph:

“(b) the aggregate of all amounts determined in relation to the trust for the year under section 659; and”.

(2) Subsection 1 applies to a taxation year in relation to which the time limits provided for in subsection 2 of section 1010 of the Act had not expired on 9 May 2006.

**43.** (1) The Act is amended by inserting the following section after section 657.1:

**“657.1.0.1.** If a trust, in its fiscal return for a taxation year under Part I of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), designates an amount in respect of a beneficiary under the trust, in accordance with subsection 13.1 or 13.2 of section 104 of that Act, the amount that the trust may deduct under paragraph *a* of section 657 in computing its income for the year may in no case be greater than the total obtained by adding the amount determined under the second paragraph to

(a) if the trust deducts a particular amount for the year under subsection 6 of that section 104 in computing its income for the purposes of that Act, the amount by which that particular amount exceeds the amount by which the aggregate of all amounts each of which is an amount that, but for those subsections 13.1 and 13.2, would be included in computing the income of a beneficiary under the trust for the year for the purposes of that Act because of subsection 13 of that section 104 or subsection 2 of section 105 of that Act, exceeds the aggregate of all amounts each of which is an amount that, but for sections 663.1 and 663.2, would be included in computing the income of a beneficiary under the trust for the year because of section 662 or 663; and

(b) zero, if subparagraph *a* does not apply.

The amount to which the first paragraph refers is the amount by which the aggregate of all amounts each of which is an amount that, but for sections 663.1 and 663.2, would be included in computing the income of a beneficiary under the trust for the year because of section 662 or 663, exceeds the aggregate of all amounts each of which is an amount that, but for subsections 13.1 and 13.2 of section 104 of the Income Tax Act, would be included in computing the income of a beneficiary under the trust for the year for the purposes of that Act because of subsection 13 of that section 104 or subsection 2 of section 105 of that Act.”

(2) Subsection 1 applies to a taxation year in relation to which the time limits provided for in subsection 2 of section 1010 of the Act had not expired on 9 May 2006.

(3) In addition, for the purposes of the Act, if, before 10 May 2006, a fiscal return of a trust was filed with the Minister of National Revenue for a taxation year under Part I of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) and, in the return, the trust designated an amount in respect of a beneficiary under the trust, in accordance with subsection 13.1 or 13.2 of section 104 of that Act, the following rules apply:

(1) section 657.1.0.1 of the Taxation Act, enacted by subsection 1, applies for that taxation year without reference to any modification made after 9 May 2006, in any manner whatever, to the information provided in the return;

(2) if, in the fiscal return filed with the Minister of National Revenue for that taxation year or in its fiscal return filed before 10 May 2006 with the Minister of Revenue of Québec for that taxation year under Part I of the Taxation Act, the trust stated that it was resident in Québec at the end of that taxation year, it is deemed to be resident in Québec on the last day of that taxation year;

(3) for that taxation year, the trust is deemed to have been validly constituted and any transaction or operation in which it was involved is deemed to be valid and binding and any decision terminating the trust or any modification, rectification, cancellation or resolution affecting the trust, a transaction or an operation after 9 May 2006, even made by a court, is, whatever the date on which it is supposed to become effective, without effect and may not be set up against the Minister of Revenue of Québec; and

(4) for that taxation year, any transaction or operation relating to the constitution of the trust and any transaction or operation in which the trust was involved are deemed to have been made for *bona fide* purposes other than to obtain a tax benefit.

**44.** (1) Section 658 of the Act, amended by section 129 of chapter 1 of the statutes of 2005 and by section 81 of chapter 38 of the statutes of 2005, is again amended, in the first paragraph,

(1) by replacing “paragraph *a*” in subparagraph ii of paragraph *b* of the definition of “settlor” by “subparagraph i”;

(2) by replacing paragraph *b* of the definition of “accumulating income” by the following paragraph:

“(b) as if the trust were deducting, in computing its income for the year under paragraph *a* of section 657, the greatest amount it would, but for section 657.1.0.1, be entitled to deduct for the year under that paragraph;”.

(2) Paragraph 2 of subsection 1 applies to a taxation year in relation to which the time limits provided for in subsection 2 of section 1010 of the Act had not expired on 9 May 2006.

**45.** (1) Section 659 of the Act is replaced by the following section:

“**659.** If a trust and a preferred beneficiary under the trust for a taxation year of the trust make, in respect of the year, a valid election for the purposes of subsection 14 of section 104 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), the lesser of the amount determined for the purposes of that subsection in respect of the beneficiary in relation to the trust for the year, in this section referred to as the “designated amount”, and the proportion of the amount attributable to the preferred beneficiary in respect of the trust for the year that the designated amount is of the aggregate of all amounts determined for the purposes of that subsection in respect of the preferred beneficiaries under the trust in relation to the trust for the year, is to be included in computing the income of the beneficiary for the beneficiary’s taxation year in which the taxation year of the trust ends and is not to be included in computing the income of a beneficiary under the trust for a subsequent taxation year.”

(2) Subsection 1 applies to a taxation year in relation to which the time limits provided for in subsection 2 of section 1010 of the Act had not expired on 9 May 2006.

**46.** (1) Section 663.2 of the Act is amended

(1) by replacing “*réfère*” in the portion of the second paragraph in the French text before the formula by “*fait référence*”;

(2) by replacing “In the formula contemplated” in the portion of the third paragraph before subparagraph *a* by “In the formula”;

(3) by replacing “the amounts designated by the trust for the year under this section” in subparagraph *c* of the third paragraph by “the amounts determined for the year in respect of its beneficiaries under the second paragraph”;

(4) by adding the following subparagraph after subparagraph *c* of the third paragraph:

“(d) where B is an amount equal to zero, the fraction of which it is the denominator is deemed to be equal to the fraction that would be established if A were the amount attributed by the trust for the year to the beneficiary under subsection 21 of section 104 of the Income Tax Act and if B were the aggregate of all amounts each of which is an amount attributed for the year to a beneficiary under the trust under that subsection 21.”

(2) Paragraphs 3 and 4 of subsection 1 apply to a taxation year in relation to which the time limits provided for in subsection 2 of section 1010 of the Act had not expired on 9 May 2006.

**47.** (1) Section 668.2 of the Act is amended

(1) by replacing “amounts designated under section 663.2 for the designation year by the trust” in subparagraph i of paragraph *a* by “the amounts determined in relation to the trust under section 663.2 for the designation year”;

(2) by replacing “the amount designated under section 663.2 for the year by the trust in respect of the beneficiary” in paragraph *b* by “the amount determined in relation to the trust under section 663.2 for the year in respect of the beneficiary”.

(2) Subsection 1 applies to a taxation year in relation to which the time limits provided for in subsection 2 of section 1010 of the Act had not expired on 9 May 2006.

**48.** (1) Section 725 of the Act, amended by section 136 of chapter 1 of the statutes of 2005, by section 195 of chapter 28 of the statutes of 2005 and by section 87 of chapter 38 of the statutes of 2005, is again amended by replacing the portion of paragraph *c.2* before subparagraph i by the following:

“(c.2) an amount received by the individual under a program referred to in paragraph *e.3* or *e.4* of section 311, a program established under the Department of Human Resources and Skills Development Act (Statutes of Canada, 2005, chapter 34) or a prescribed program, if the amount”.

(2) Subsection 1 has effect from 5 October 2005.

**49.** (1) Section 725.0.1 of the Act is amended by replacing paragraph *c* of the definition of “reserve” by the following paragraph:

“(c) the Hunter’s Point, Kitcisakik and Pakuashipi Indian settlements and an Indian settlement within the meaning of section 2 of the Indians and Bands on certain Indian Settlements Remission Order made by Order in Council P.C. 1992-1052 dated 14 May 1992, as amended by Order in Council P.C. 1994-2096 dated 14 December 1994, under the Financial Administration Act, or within the meaning of section 1 of the Indians and Bands on Certain Indian Settlements Remission Order (1997) made by Order in Council P.C. 1997-1529 dated 23 October 1997 under that Act; and”.

(2) Subsection 1 applies from the taxation year 1997.

**50.** (1) The Act is amended by inserting the following after section 726.4:

**“TITLE VI.3.0.1**

**“SME GROWTH STOCK PLANS**

**“726.4.0.1.** An individual may deduct, for the year, the amount provided for in section 965.126.”

(2) Subsection 1 applies from the taxation year 2005.

**51.** (1) Section 726.6 of the Act, amended by section 138 of chapter 1 of the statutes of 2005, by section 75 of chapter 23 of the statutes of 2005 and by section 89 of chapter 38 of the statutes of 2005, is again amended by inserting “, except if the incorporeal capital property is a real servitude that encumbers an immovable referred to in subparagraph i of subparagraph *a* of the first paragraph” after “are met” in the third paragraph.

(2) Subsection 1 applies in respect of a real servitude established after 21 April 2005.

**52.** (1) Section 726.20.2 of the Act is amended by replacing subparagraph *a* of the first paragraph by the following subparagraph:

“(a) subject to the third paragraph, the amount by which the amount determined under the second paragraph is exceeded by 1/2 of the excess amount that would be computed under paragraph *a* of section 726.4.10 in respect of the individual at the end of the year if

i. the only expenses referred to in that paragraph *a* were expenses in respect of which section 726.4.10.1 applies, and

ii. the expenses incurred as a consequence of the acquisition, before 31 March 2004, of a flow-through share or of an interest in a partnership following an investment made after 12 June 2003, or an application for a receipt for the preliminary prospectus or an application for an exemption from filing a prospectus made after 12 June 2003, were not referred to in that paragraph *a*;”.

(2) Subsection 1 has effect from 13 June 2003.

**53.** (1) Section 737.18.9.2 of the Act, amended by section 83 of chapter 23 of the statutes of 2005, is again amended

(1) by striking out “otherwise than under the circumstances described in the second paragraph,” in the portion before subparagraph *a* of the first paragraph;

(2) by replacing the portion of the second paragraph before subparagraph *c* by the following:

“However, the first paragraph does not apply if the acquisition of control

(a) occurs before 1 July 2004 and Investissement Québec certifies that it results from a transaction that was sufficiently advanced on 11 June 2003 and was binding on the parties on that date;

(b) is by a corporation carrying on at that time a recognized business, by a person or group of persons that controls such a corporation, or by a group of persons each member of which is such a corporation or a person who, alone or together with other members of the group, controls such a corporation;”;

(3) by adding the following subparagraph after subparagraph *c* of the second paragraph:

“(d) derives from the performance after 11 June 2003 of one or more obligations described in the third paragraph of section 21.3.5 that were contracted before 12 June 2003.”

(2) Subsection 1 has effect from 12 June 2003. However, when subparagraph *a* of the second paragraph of section 737.18.9.2 of the Act applies before 31 March 2004, it reads as if “and Investissement Québec” was replaced by “and the Minister of Finance”.

**54.** (1) Section 737.18.14 of the Act is amended by replacing the definition of “eligible activities” in the first paragraph by the following definition:

““eligible activities” of a corporation or partnership, in relation to a major investment project, means the activities or portion of the activities carried on by the corporation or partnership in the course of carrying on the recognized business in connection with which the major investment project is carried out or is in the process of being carried out, that arise from the major investment project, except, in respect of the activities of a corporation, the portion of the activities of the corporation that are carried on under a contract that is an eligible contract for the purposes of Division II.6.0.1.8 of Chapter III.1 of Title III of Book IX;”.

(2) Subsection 1 has effect from 1 January 2005.

**55.** (1) Section 737.18.18 of the Act is amended, in the definition of “eligible region” in the first paragraph,

(1) by striking out subparagraph ii of paragraph *b*;

(2) by adding the following paragraph after paragraph *b*:



“(c) the urban agglomeration of La Tuque, as described in section 8 of the Act respecting the exercise of certain municipal powers in certain urban agglomerations (chapter E-20.001);”.

(2) Subsection 1 has effect from 26 March 2003. However, when paragraph *c* of the definition of “eligible region” in the first paragraph of section 737.18.18 of the Act applies before 1 January 2006, it reads as follows:

“(c) Ville de La Tuque;”.

**56.** (1) Section 737.18.29 of the Act, amended by section 100 of chapter 38 of the statutes of 2005, is again amended, in the first paragraph,

(1) by replacing “in the territory of Ville de Montréal” in the definition of “qualified corporation” by “within the urban agglomeration of Montréal, as described in section 4 of the Act respecting the exercise of certain municipal powers in certain urban agglomerations (chapter E-20.001);”;

(2) by replacing “in the territory of Ville de Montréal” in subparagraph ii of paragraph *e* of the definition of “foreign specialist” by “within the urban agglomeration of Montréal, as described in section 4 of the Act respecting the exercise of certain municipal powers in certain urban agglomerations”.

(2) Subsection 1 has effect from 1 January 2006.

**57.** (1) Section 752.0.1.2 of the Act, enacted by section 152 of chapter 1 of the statutes of 2005, is replaced by the following section:

“**752.0.1.2.** If, for the purpose of establishing the amount that an individual may deduct from the individual’s tax otherwise payable for a taxation year under section 752.0.1, the individual includes, in computing the aggregate referred to in that section, a particular amount under paragraph *e* of that section, and a condition described in any of subparagraphs i to iii of that paragraph *e* is not satisfied in respect of the individual during the entirety of a month included in the year, the particular amount that would otherwise be applicable for the year, with reference to section 750.2 and section 752.0.1.1, shall be reduced by an amount equal to the proportion of that particular amount that the number of months in the year during the entirety of which all the conditions described in subparagraphs i to iii of that paragraph *e* are not satisfied in respect of the individual is of 12.”

(2) Subsection 1 applies from the taxation year 2005.

**58.** (1) Section 752.0.18.10 of the Act is amended by adding the following paragraph after paragraph *b*:

“(c) the amount of the individual’s examination fees paid in respect of the year or a preceding year if that year is subsequent to the taxation year 2004 to a professional organization in Canada or the United States, where the conditions

set out in section 752.0.18.13 are met in respect of that amount and the individual must pass the examination in order to

i. be issued a permit to practise by a professional order mentioned in Schedule I to the Professional Code,

ii. be granted a title by the Canadian Institute of Actuaries, or

iii. be permitted to take another examination of that professional organization which the individual must pass in order to be issued a permit referred to in subparagraph i or be granted a title referred to in subparagraph ii.”

(2) Subsection 1 applies from the taxation year 2005.

**59.** Section 752.0.18.12 of the Act is amended by replacing subparagraph ii of paragraph *c* by the following subparagraph:

“ii. it is not reasonable to consider that the purpose of the individual’s enrolment at the institution was to furnish the individual with skills for, or to improve the individual’s skills in, an occupation.”

**60.** (1) The Act is amended by inserting the following section after section 752.0.18.12:

**“752.0.18.12.1.** For the application of section 752.0.18.10 to an individual for a particular taxation year, the aggregate of the amounts described in that section does not include the amount of the tuition fees and examination fees paid in respect of a preceding year throughout which the individual was not resident in Canada.”

(2) Subsection 1 applies from the taxation year 2006.

**61.** (1) Section 771.8.5 of the Act, replaced by section 106 of chapter 23 of the statutes of 2005, is amended by replacing the third paragraph by the following paragraph:

“The condition set out in subparagraph 2 of subparagraph i of subparagraph *b* of the second paragraph is deemed not to be met if the acquisition of control

(*a*) occurs before 1 July 2004 and Investissement Québec certifies that it results from a transaction that was sufficiently advanced on 11 June 2003 and was binding on the parties on that date;

(*b*) is by an exempt corporation, by a person or group of persons that controls an exempt corporation, or by a group of persons each member of which is an exempt corporation or a person who, alone or together with other members of the group, controls such a corporation;

(c) derives from the exercise after 11 June 2003 of one or more rights described in paragraph *b* of section 20 that were acquired before 12 June 2003; or

(d) derives from the performance after 11 June 2003 of one or more obligations described in the third paragraph of section 21.3.5 that were contracted before 12 June 2003.”

(2) Subsection 1 has effect from 12 June 2003.

**62.** (1) Section 771.13 of the Act, amended by section 108 of chapter 23 of the statutes of 2005, is again amended

(1) by striking out “after 11 June 2003 but” in subparagraph i of paragraph *d*;

(2) by replacing subparagraph ii of paragraph *d* by the following subparagraph:

“ii. is by an exempt corporation, by a person or group of persons that controls an exempt corporation, or by a group of persons each member of which is an exempt corporation or a person who, alone or together with other members of the group, controls such a corporation;”;

(3) by adding the following subparagraph after subparagraph iii of paragraph *d*:

“iv. derives from the performance after 11 June 2003 of one or more obligations described in the third paragraph of section 21.3.5 that were contracted before 12 June 2003; or”;

(4) by striking out “after 30 March 2004 but” in subparagraph i of paragraph *e*;

(5) by replacing subparagraph ii of paragraph *e* by the following subparagraph:

“ii. is by an exempt corporation, by a person or group of persons that controls an exempt corporation, or by a group of persons each member of which is an exempt corporation or a person who, alone or together with other members of the group, controls such a corporation;”;

(6) by adding the following subparagraph after subparagraph iii of paragraph *e*:

“iv. derives from the performance after 30 March 2004 of one or more obligations described in the third paragraph of section 21.3.5 that were contracted before 31 March 2004.”

(2) Paragraphs 1 to 3 of subsection 1 have effect from 12 June 2003.

(3) Paragraphs 4 to 6 of subsection 1 have effect from 31 March 2004.

**63.** (1) Section 772.9.2 of the Act, enacted by section 109 of chapter 23 of the statutes of 2005, is amended

(1) by replacing subparagraph *a* of the first paragraph by the following subparagraph:

“(a) the amount by which the aggregate of all amounts each of which is the amount of any business-income tax or non-business-income tax paid by the individual for the taxation year to the government described in the second paragraph, that can reasonably be regarded as having been paid in respect of the portion of any gain or profit from the disposition of the property that accrued while the individual was resident in Canada and before the time the individual last ceased to be resident in Canada, exceeds the deduction relating to the portion of the gain or profit that is granted to the individual for the emigration year under subsection 2.21 of section 126 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement); and”;

(2) by replacing subparagraph ii of subparagraph *a* of the second paragraph by the following subparagraph:

“ii. the government of a country in which the individual is resident at the particular time referred to in the first paragraph and with which the Gouvernement du Québec or the Government of Canada has a tax agreement at that time; or”;

(3) by replacing subparagraph *b* of the second paragraph by the following subparagraph:

“(b) if the property is not immovable property, the government of a country in which the individual is resident at the particular time referred to in the first paragraph and with which the Gouvernement du Québec or the Government of Canada has a tax agreement at that time.”

(2) Paragraph 1 of subsection 1 applies from the taxation year 1996.

(3) Paragraphs 2 and 3 of subsection 1 apply from the taxation year 1998.

**64.** (1) Section 772.9.3 of the Act, enacted by section 109 of chapter 23 of the statutes of 2005, is amended

(1) by replacing subparagraph *a* of the first paragraph by the following subparagraph:

“(a) the amount by which the aggregate of all amounts each of which is the amount of any business-income tax or non-business-income tax paid by the individual for the taxation year to the government described in the second paragraph, that can reasonably be regarded as having been paid in respect of

the portion of any gain or profit from the disposition of the property that accrued before the distribution and after the latest of the following times before the distribution, exceeds the deduction relating to the portion of the gain or profit that is granted to the trust for the distribution year under subsection 2.22 of section 126 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement):

- i. the time at which the trust became resident in Canada,
- ii. the time at which the individual became a beneficiary under the trust, or
- iii. the time at which the trust acquired the property; and”;

(2) by replacing subparagraph ii of subparagraph *a* of the second paragraph by the following subparagraph:

“ii. the government of a country in which the individual is resident at the particular time described in the first paragraph and with which the Gouvernement du Québec or the Government of Canada has a tax agreement at that time; or”;

(3) by replacing subparagraph *b* of the second paragraph by the following subparagraph:

“(b) if the property is not immovable property, the government of a country in which the individual is resident at the particular time described in the first paragraph and with which the Gouvernement du Québec or the Government of Canada has a tax agreement at that time.”

(2) Paragraph 1 of subsection 1 applies from the taxation year 1996.

(3) Paragraphs 2 and 3 of subsection 1 apply from the taxation year 1998.

**65.** (1) Section 772.9.4 of the Act, enacted by section 109 of chapter 23 of the statutes of 2005, is amended

(1) by replacing “a tax treaty between Canada and” by “a tax agreement, within the meaning assigned by section 1 or that would be assigned by that section if the Gouvernement du Québec had not made an agreement referred to in that definition of “tax agreement”, entered into with”;

(2) by inserting “this Act or” after “payable by the individual under”.

(2) Paragraph 1 of subsection 1 applies from the taxation year 1998. In addition, when section 772.9.4 of the Act applies to the taxation year 1996 or 1997, it reads as if “tax treaty between” was replaced by “tax agreement between the Gouvernement du Québec or the Government of”.

(3) Paragraph 2 of subsection 1 applies from the taxation year 1996.

**66.** The heading of Title V.2 of Book VII of Part I of the Act is replaced by the following heading:

“ELECTION IN RESPECT OF A UNIT IN A QUALIFIED TRUST”.

**67.** (1) Section 961.23 of the Act is replaced by the following section:

“**961.23.** In this Title, “qualified trust” has the meaning assigned by subsection 5 of section 259 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).”

(2) Subsection 1 applies to a taxation year that begins after 31 December 2004.

**68.** (1) Section 961.24 of the Act is amended by striking out paragraph c.

(2) Subsection 1 applies to a taxation year that begins after 31 December 2004.

**69.** (1) Section 961.24.2 of the Act is repealed.

(2) Subsection 1 applies to a taxation year that begins after 31 December 2004.

**70.** (1) Section 961.24.4 of the Act, amended by section 127 of chapter 23 of the statutes of 2005, is replaced by the following section:

“**961.24.4.** If a qualified trust makes an election under section 961.24,

(a) it shall provide notification of the election

i. not later than 30 days after making the election, to each person who held a unit in the qualified trust before the election was made and during the period for which the election is applicable, and

ii. at the time of acquisition, to each person who acquires a unit in the qualified trust after the election has been made and during the period for which the election is applicable; and

(b) where a person who holds a unit in the qualified trust during the period for which the election is applicable makes a written request to the qualified trust for information that is necessary for the purpose of determining the consequences under this Part of the election for that person, the qualified trust shall provide the person with that information not later than 30 days after receiving the request.”

(2) Subsection 1 applies to a taxation year that begins after 31 December 2004.

**71.** (1) Section 965.1 of the Act, amended by section 214 of chapter 38 of the statutes of 2005, is again amended

(1) by adding “and in respect of which the application for a receipt has been filed before 13 June 2003” at the end of paragraph *g.1*;

(2) by replacing paragraph *h* by the following paragraph:

“(h) “public share issue” means the distribution of a share or subscription right in a share made in accordance with a receipt from the Autorité des marchés financiers, provided that the application for a receipt has been filed before 13 June 2003, or in accordance with an exemption from filing a prospectus provided for in section 52 or 263 of the Securities Act or, if section 965.9.1.1 applies, in section 51 of that Act, provided that the distribution has been made before 13 June 2003;”;

(3) by adding “and in respect of which the application for a receipt or an exemption from filing a prospectus has been filed before 13 June 2003” at the end of paragraph *h.0.1*;

(4) by adding “and in respect of which the application for a receipt or an exemption from filing a prospectus has been filed before 13 June 2003” at the end of paragraph *h.0.1.1*.

(2) Subsection 1 has effect from 13 June 2003.

**72.** (1) Section 965.9.1.0.1 of the Act is amended by replacing “as a result of the” in paragraph *b* by “as a result of the exercise, on or before 31 December 2005, of a”.

(2) Subsection 1 has effect from 21 April 2005.

**73.** (1) Section 965.9.1.0.2 of the Act is amended by replacing “as a result of the” in paragraph *b* by “as a result of the exercise, on or before 31 December 2005, of a”.

(2) Subsection 1 has effect from 21 April 2005.

**74.** (1) Section 965.9.1.0.3 of the Act is amended by inserting “, on or before 31 December 2005,” after “of the exercise” in paragraph *b*.

(2) Subsection 1 has effect from 21 April 2005.

**75.** (1) Section 965.9.1.0.4 of the Act is amended by inserting “, on or before 31 December 2005,” after “of the exercise” in paragraph *b*.

(2) Subsection 1 has effect from 21 April 2005.

**76.** (1) Section 965.9.1.0.4.2 of the Act is amended by inserting “, on or before 31 December 2005,” after “of the exercise” in subparagraph i of paragraph *a*.

(2) Subsection 1 has effect from 21 April 2005.

**77.** (1) Section 965.9.1.0.4.3 of the Act is amended by inserting “, on or before 31 December 2005,” after “of the exercise” in paragraph *a*.

(2) Subsection 1 has effect from 21 April 2005.

**78.** (1) Section 965.9.1.0.5 of the Act is amended by inserting “, on or before 31 December 2005,” after “of the exercise” in subparagraph i of paragraph *a*.

(2) Subsection 1 has effect from 21 April 2005.

**79.** (1) Section 965.9.1.0.6 of the Act is amended by inserting “, on or before 31 December 2005,” after “of the exercise” in paragraph *a*.

(2) Subsection 1 has effect from 21 April 2005.

**80.** (1) The Act is amended by inserting the following before Title VII of Book VII of Part I:

**“TITLE VI.5**

**“SME GROWTH STOCK PLANS**

**“CHAPTER I**

**“INTERPRETATION AND GENERAL**

**“DIVISION I**

**“DEFINITIONS**

**“965.55.** In this Title and in sections 1049.14.2 to 1049.14.24,

“adjusted cost” of a qualifying share, qualifying security or valid share means the adjusted cost determined under Chapter V;

“assets” of a corporation means the assets determined in accordance with subdivision 3 of Division II;

“common share with voting rights” means a common share carrying a right to vote in all circumstances in the issuing corporation;

“coverage deficiency amount” means the amount determined in accordance with section 965.129;



“dealer” means a dealer, within the meaning of section 5 of the Securities Act (chapter V-1.1), having an establishment in Québec and registered with the Autorité des marchés financiers, an unincorporated mutual fund or a mutual fund within the meaning of that Act and an insurer, a bank, a corporation licensed or otherwise authorized under the laws of Canada or of a province to offer its services therein as a trustee, a savings and credit union or any other prescribed person;

“designated qualified issuing corporation” has the meaning assigned by section 965.95;

“eligible transaction” means a transaction by which a capital pool company acquires important assets, other than cash on hand, as a consequence of the making of a purchase, consolidation or amalgamation contract or of an arrangement with another corporation, or as a consequence of another kind of transaction;

“list of the Autorité des marchés financiers” means the list published periodically by the Autorité des marchés financiers and containing the names of the corporations and the designation of those classes of shares of their capital stock that may constitute valid shares for the purposes of this Title;

“negotiable instrument” means any form of investment referred to in section 1 of the Securities Act, without reference to the exception provided for in subparagraph 3 of the first paragraph of that section;

“paid-up capital”

(a) in relation to a share of the capital stock of a corporation means the amount shown in its books in the capital stock account in respect of that share and any amount shown elsewhere in its books and received in consideration for the issue of that share; and

(b) in relation to a subscription right in a share of the capital stock of a corporation means the amount shown in its books in the capital stock account in respect of that right and received in consideration for the issue of that right;

“public security issue” means the distribution of a security in accordance with a receipt granted by the Autorité des marchés financiers after 21 April 2005;

“public share issue” means the distribution of a share in accordance with a receipt granted by the Autorité des marchés financiers after 21 April 2005 or, if section 965.76 applies, in accordance with an exemption from filing a prospectus, provided for in subsection 2 of section 2.10 of Regulation 45-106 respecting prospectus and registration exemptions approved by ministerial order 2005-20 (2005, G.O. 2, 3664), granted by the Autorité des marchés financiers after 21 April 2005;

“qualified issuing corporation” means a corporation described in Division I of Chapter IV that is not governed by an Act establishing a labour-sponsored fund, by the Act constituting Capital régional et coopératif Desjardins (chapter C-6.1) or by the Act respecting Québec business investment companies (chapter S-29.1);

“qualified mutual fund” means a mutual fund described in Division II of Chapter IV;

“qualifying security” means a security meeting the requirements of section 965.85;

“qualifying share” means a share meeting the requirements of any of sections 965.74 to 965.76, other than a share referred to in section 965.79;

“security” means an investment in a qualified mutual fund;

“SME growth stock plan” means an arrangement described in section 965.56;

“total income”, in respect of an individual for a year, means the amount by which the individual’s income for the year that would be determined under section 28 but for paragraph *k.0.1* of section 311, section 311.1 where that section applies to a social assistance payment other than a payment received as last resort financial assistance under the Act respecting income support, employment assistance and social solidarity (chapter S-32.001) or as similar government assistance, and paragraph *a* of section 317 where that paragraph refers to the amount of any supplement or allowance received under the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9) or to a payment similar to such a supplement or allowance made under a law of a province, exceeds the amount the individual deducts for the year in computing the individual’s taxable income under Titles VI.5 and VI.5.1 of Book IV;

“valid qualifying security” in respect of a year means a qualifying security acquired by an individual in that year and held without interruption, throughout the part of the year that follows the acquisition, in an SME growth stock plan under which the individual is a beneficiary;

“valid share” means a share described in Chapter III;

“venture capital corporation” means a corporation

(a) whose main activity consists in investing funds in the form of shares of the capital stock of another corporation;

(b) that generally participates in the management of the other corporation in which it invests funds;

(c) that invests funds in another corporation that are generally not guaranteed by the assets of the other corporation; and

(d) whose initial investment in another corporation does not exceed 20% of its funds available for such investments.

For the purposes of the definitions of “public security issue” and “public share issue” in the first paragraph, the application for a receipt in respect of the distribution of a share or security or, if section 965.76 applies, the application for an exemption from filing a prospectus, must be filed with the Autorité des marchés financiers before 1 January 2010.

**“965.56.** An SME growth stock plan is

(a) an arrangement made between an individual who is not a trust and a dealer, under which the individual entrusts the dealer with the custody of such of the individual’s qualifying shares and valid shares as the individual may indicate, that are not included in any other plan of any kind for the purposes of this Act; or

(b) an arrangement made between an individual who is not a trust and a dealer or a qualified mutual fund, under which the individual entrusts

i. the dealer with the custody of such of the individual’s qualifying securities as the individual may indicate, that are not included in any other plan of any kind for the purposes of this Act, or

ii. the qualified mutual fund with the custody of such of the individual’s qualifying securities, issued by the qualified mutual fund, as the individual may indicate, that are not included in any other plan of any kind for the purposes of this Act.

## **“DIVISION II**

### **“GENERAL RULES**

#### **“§1. — *Listing and disclosure***

**“965.57.** A qualified issuing corporation making a public issue of shares of its capital stock with a stipulation that they can be included in an SME growth stock plan is required to take steps to have the shares listed on a Canadian stock exchange not later than 60 days after the date of the receipt for the final prospectus relating to their issue.

#### **“§2. — *Administration***

**“965.58.** Every dealer with whom an individual has made an arrangement for an SME growth stock plan shall keep in Québec a record showing, in a separate account, all the transactions effected on behalf of that individual under the plan.

**“965.59.** The dealer shall ensure that every qualifying share to be included in an SME growth stock plan has been acquired for money

consideration as part of a public share issue, that the certificate for the share has been sent to the dealer directly by the issuer of the certificate or by another dealer who certifies that the share has been held, without interruption from its issue, by a dealer acting as an intermediary or as a firm underwriter, and that the qualified issuing corporation that issued it has stated, in the final prospectus or in the application for an exemption from filing a prospectus relating to the share, that the share could be included in an SME growth stock plan.

**“965.60.** The dealer shall ensure that every valid share to be included in an SME growth stock plan meets the requirements set out in Chapter III.

**“965.61.** Every qualified mutual fund with which an individual has made an arrangement for an SME growth stock plan shall keep in Québec a record showing, in a separate account, all the transactions effected on behalf of that individual under the plan.

**“965.62.** Every trustee or manager of a qualified mutual fund shall send to the Minister a statement to the effect that the undertakings of the qualified mutual fund specified in section 965.119 are fulfilled.

The statement must be filed within the three months that follow each year provided for in section 965.119.

**“965.63.** An individual who elects to have this Title apply shall enclose with the fiscal return the individual is required to file for a taxation year under section 1000 the prescribed form containing the prescribed information in respect of the SME growth stock plans under which the individual is a beneficiary and a copy of the information returns filed in prescribed form received by the individual for the year in respect of those plans from the dealers or qualified mutual funds.

**“§3. — *Assets***

**“965.64.** The assets of a corporation are the assets shown in its financial statements submitted to the shareholders for its last taxation year ended before the date of the receipt for the final prospectus or of the exemption from filing a prospectus, or, if such financial statements have not been prepared, or have not been prepared in accordance with generally accepted accounting principles, that would be shown if such financial statements had been prepared in accordance with generally accepted accounting principles.

For the purposes of the first paragraph, the following rules apply in computing the assets of a corporation:

(a) the amount of the surplus reassessment of its property and the amount of its incorporeal assets shall be subtracted, to the extent that the amount shown in their respect exceeds the expenditure made in their respect; and

(b) if a consideration for the purchase of incorporeal assets consists of shares of the corporation's capital stock, it is deemed to be nil.

**“965.65.** The assets of a corporation that, within the 365 days preceding the date of the receipt for the final prospectus or of the exemption from filing a prospectus, results from an amalgamation within the meaning of section 544 are equal to the greater of

(a) the amount of the assets, determined in accordance with section 965.64, of the corporation resulting from the amalgamation; and

(b) the amount of the aggregate of the assets of each of the predecessor corporations, determined in accordance with section 965.64, as if the reference in that section to its financial statements submitted to the shareholders for its last taxation year ended before the date of the receipt for the final prospectus or of the exemption from filing a prospectus were replaced by a reference to its financial statements submitted to the shareholders for each of the taxation years ended within the 365 days preceding the time of amalgamation and as if only the greatest amount, if any, of the assets of each of the predecessor corporations were taken into account.

**“965.66.** The assets of a corporation that is associated with another corporation in the 12 months preceding the date of the receipt for the final prospectus or of the exemption from filing a prospectus, are equal to the amount by which the aggregate of the assets of the corporation and those of each corporation associated with it, determined in accordance with sections 965.64 and 965.65, exceeds the aggregate of the amount of investments the corporations own in each other and the balance of accounts between the corporations.

**“965.67.** For the purposes of sections 965.64 to 965.66, the assets are to be computed by making every possible combination in the computation in respect of each fiscal period of each corporation referred to, where that is the case, in those sections.

**“965.68.** For the purposes of section 965.64, the following rules apply:

(a) if a computation provided for in that section must be made in respect of a corporation that is in its first fiscal period, the reference to its financial statements submitted to the shareholders for its last taxation year ended before the date of the receipt for the final prospectus or of the exemption from filing a prospectus is to be replaced by a reference to its financial statements at the beginning of its first fiscal period; and

(b) if a computation provided for in that section must be made in respect of a corporation that, within the 365 days preceding the date of the receipt for the final prospectus or of the exemption from filing a prospectus, modified its usual and accepted fiscal period, the reference to its financial statements submitted to the shareholders for its last taxation year ended before the date of

the receipt for the final prospectus or of the exemption from filing a prospectus is to be replaced by a reference to its financial statements submitted to the shareholders for each of the taxation years ended in the 365 days preceding the date of the receipt for the final prospectus or of the exemption from filing a prospectus.

**“965.69.** For the purposes of sections 965.64 to 965.68, if a computation provided for in those sections must be made in respect of a corporation described in section 965.70 that makes a public share issue, the computation is made without reference to the assets, if any, of a government or of another corporation mentioned in section 965.70 that is no longer associated with it on the date on which the public share issue ends and, in the case of the other corporation, was not directly or indirectly controlled by the issuing corporation at any time in the 12 months preceding the date of the receipt for the final prospectus or of the exemption from filing a prospectus.

**“965.70.** A corporation referred to in section 965.69 is a corporation that, on the date of the receipt for the final prospectus or of the exemption from filing a prospectus, would be a qualified issuing corporation but for a government or another corporation associated with a government associated with it on that date, except a corporation directly or indirectly controlled by the issuing corporation on that date or that was so controlled at any time in the 12 months preceding that date, and that is, on the date on which the public share issue ends, no longer associated with that government or that other corporation.

The issuing corporation is also a corporation referred to in section 965.69 for the 12 months following the date on which it is no longer associated with that government or that other corporation.

**“965.71.** For the purposes of sections 965.64 to 965.67, if a computation provided for in those sections must be made in respect of a particular corporation that makes a public share issue and that would be, on the date of the receipt for the final prospectus or of the exemption from filing a prospectus, a qualified issuing corporation but for a venture capital corporation associated with it on that date, the computation is made without reference to the assets of that venture capital corporation if, on the date on which the public share issue ends, the particular corporation is no longer associated with that venture capital corporation.

**“965.72.** For the purposes of this Title, if a corporation is required to meet a requirement in respect of which section 965.64 or 965.66 applies, the requirement must be met for each of its fiscal periods referred to, where that is the case, in those sections.

**“965.73.** For the purposes of sections 965.64 to 965.67, if a corporation or a corporation associated with it reduces its assets by any transaction for the purpose of qualifying the corporation as a corporation whose assets are less

than \$100,000,000, the assets are deemed not to have been reduced unless the Minister decides otherwise.

## **“CHAPTER II**

### **“QUALIFYING SHARES AND QUALIFYING SECURITIES**

#### **“DIVISION I**

##### **“QUALIFYING SHARES**

**“965.74.** A share of the capital stock of an issuing corporation qualifies for an SME growth stock plan if

(a) it is a common share with voting rights;

(b) it cannot, under the conditions pertaining to its issue, be redeemed in whole or in part by the issuing corporation or purchased in whole or in part by anyone, directly or indirectly, in any manner whatever, or be the subject of a transaction that would result either in rendering such a share, a share substituted for such a share or a share received as a result of a transaction referred to in any of sections 301, 536, 541 and 544 in relation to any such share or substituted share, redeemable in whole or in part by the issuing corporation or purchasable in whole or in part by anyone, directly or indirectly, in any manner whatever, or in transferring property of the corporation other than a dividend to the shareholder;

(c) it cannot, under the conditions pertaining to its issue, entitle the holder to a dividend that is or will be the subject of an undertaking under which its payment is guaranteed by a person other than the issuing corporation;

(d) it is issued by a qualified issuing corporation that states in the final prospectus that the share may be included in an SME growth stock plan and entitles its holder to the benefit provided for in its respect by this Title;

(e) before the receipt for a final prospectus has been obtained, it was the subject of a favourable advance ruling from the Ministère du Revenu to the effect that it complies with the objectives of this Title;

(f) it is acquired for money consideration within the scope of a public share issue by an individual or a qualified mutual fund as first purchaser, other than a dealer acting as an intermediary or as a firm underwriter; and

(g) it is subscribed and paid.

**“965.75.** The certificate relating to a share described in section 965.74 must be given directly to the dealer referred to in section 965.56 by the issuer of the certificate or by another dealer who certifies that the certificate has been held, without interruption from its issue, by a dealer acting as an intermediary

or as a firm underwriter, or issued and registered in the dealer's name or in the name of a person designated by the dealer.

**“965.76.** Subject to section 965.77, a share also qualifies for an SME growth stock plan if

(a) it is acquired for money consideration by a qualified mutual fund as first purchaser, other than a dealer acting as an intermediary or as a firm underwriter, in the distribution of a share for which an exemption from filing a prospectus is provided for in subsection 2 of section 2.10 of Regulation 45-106 respecting prospectus and registration exemptions approved by ministerial order 2005-20 (2005, G.O. 2, 3664);

(b) it meets the requirements of paragraphs *a* to *c* and *g* of section 965.74;

(c) in the taxation year of the issuing corporation during which the application for an exemption from filing a prospectus was filed and before the granting of the exemption, it was the subject of a favourable advance ruling from the Ministère du Revenu to the effect that it complies with the objectives of this Title;

(d) on or before 10 days after the day of the distribution of the share, a copy of the report provided for in paragraph *d* of section 6.1 of Regulation 45-106 respecting prospectus and registration exemptions was filed with the Minister, accompanied by the certificate described in section 965.78, unless the issuing corporation makes a first public share issue under this Title in accordance with subsection 2 of section 2.10 of that regulation; and

(e) it is issued by a qualified issuing corporation having common shares of its capital stock carrying voting rights listed on a Canadian stock exchange.

**“965.77.** The condition set out in paragraph *c* of section 965.76 does not apply in respect of a share if an issuing corporation has previously made a public share issue under this Title otherwise than in accordance with subsection 2 of section 2.10 of Regulation 45-106 respecting prospectus and registration exemptions approved by ministerial order 2005-20 (2005, G.O. 2, 3664).

**“965.78.** The certificate to which paragraph *d* of section 965.76 refers means a certificate from a manager of the issuing corporation certifying that it is a qualified issuing corporation and that the share issued to the mutual fund, as part of the distribution of a share for which an exemption from filing a prospectus is provided for in subsection 2 of section 2.10 of Regulation 45-106 respecting prospectus and registration exemptions approved by ministerial order 2005-20 (2005, G.O. 2, 3664), is a qualifying share.

**“965.79.** Despite section 965.74, if the major portion of the proceeds of a public share issue is, as stated in the final prospectus or as may be inferred from it, used, directly or indirectly, in payment of the acquisition of shares or of any other negotiable instrument of a corporation, a share acquired as part of the public share issue is not a qualifying share, unless,



(a) if the shares or negotiable instruments are securities issued by a particular corporation whose name is disclosed in the final prospectus, the issuing corporation or another corporation associated with it carries on a business and the particular corporation is, immediately after the acquisition, directly or indirectly, a subsidiary controlled corporation of the issuing corporation and the activities of the particular corporation or those of a subsidiary corporation the particular corporation controls directly or indirectly have commercial possibilities directly linked with the activities of the issuing corporation or of another corporation associated with it on the date of the receipt for the final prospectus; or

(b) if the shares or negotiable instruments will be securities issued by a corporation whose name is not disclosed in the final prospectus, the issuing corporation or another corporation associated with it carries on a business and the issuing corporation states expressly in the final prospectus that the shares or negotiable instruments will be securities issued by a particular corporation that, immediately after the acquisition, will be directly or indirectly, a subsidiary controlled corporation of the issuing corporation and the activities of the particular corporation or those of a subsidiary corporation the particular corporation controls directly or indirectly have commercial possibilities directly linked with the activities of the issuing corporation or those of another corporation associated with it on the date of the receipt for the final prospectus.

**“965.80.** For the purposes of section 965.79, if all or part of the proceeds of a public share issue is, as stated in the final prospectus or as may be inferred from it, used for the repayment of borrowed money or of any other debt contracted within a reasonable period of time before or after the date of the receipt for the final prospectus, or the redemption of shares or of any other securities issued within such a period of time for the payment of shares or of any other negotiable instrument, the use of all or part of the proceeds is deemed to be a payment for such an acquisition.

**“965.81.** For the purposes of sections 965.79 and 965.80, if all or part of the proceeds of a public share issue is, as stated in the final prospectus or as may be inferred from it, used for the repayment of borrowed money or of any other debt contracted by a particular corporation within a reasonable period of time before or after the date of the receipt for the final prospectus, or the redemption of shares or of any other securities issued within such a period of time for the payment of shares or of any other negotiable instrument issued by another corporation, and the issuing corporation results from the amalgamation, within the meaning of section 544, of the particular corporation and of the other corporation, the issuing corporation is deemed to be, immediately after the acquisition mentioned in section 965.79, the particular corporation.

**“965.82.** For the purposes of sections 965.79 and 965.80, a share or a negotiable instrument does not include, if the issuing corporation carries on the activities of a dealer, such property described in an inventory.

**“965.83.** Section 965.79 does not apply if the issuing corporation is

- (a) a bank;
- (b) a body governed by the Insurance Companies Act (Statutes of Canada, 1991, chapter 47) or by the Act respecting insurance (chapter A-32);
- (c) a corporation holding a licence or otherwise authorized by the laws of Canada or of a province to offer its services as a trustee; or
- (d) a corporation whose principal business is the lending of money or the purchasing of debts.

**“965.84.** For the purposes of this chapter, if all or part of the proceeds of a public share issue relates, directly or indirectly, as stated by a corporation in a final prospectus or as may be inferred from it, to activities to be carried on outside Québec and, in the opinion of the Minister, the activities may have a tangible negative impact on the level of employment or economic activity in Québec of that corporation or of a subsidiary of that corporation, a share of that corporation acquired as part of the public share issue is not a qualifying share.

## **“DIVISION II**

### **“QUALIFYING SECURITIES**

**“965.85.** A security qualifies for an SME growth stock plan if

- (a) it is issued by a qualified mutual fund that states, in the final prospectus relating to the issue of the security, that the security may be included in an SME growth stock plan and entitles its holder to the benefit provided for in its respect by this Title;
- (b) where it is issued by a qualified mutual fund that, in respect of its first public security issue consisting of securities that may be included in an SME growth stock plan, has made an election under section 965.121, it is a security issued as part of that first public security issue;
- (c) it is acquired for money consideration by an individual as first purchaser, other than a dealer acting as an intermediary or as a firm underwriter;
- (d) before the receipt for a final prospectus relating to its issue has been obtained, it was the subject of a favourable advance ruling from the Ministère du Revenu to the effect that it complies with the objectives of this Title; and
- (e) the certificate attesting to it is
  - i. kept, under the terms of an arrangement provided for in subparagraph ii of paragraph *b* of section 965.56, by the qualified mutual fund that issued the security, or

ii. given directly to the dealer referred to in subparagraph i of paragraph *b* of section 965.56 by the issuer of the certificate or by another dealer who certifies that the certificate has been held, without interruption from its issue, by a dealer acting as an intermediary or as a firm underwriter, or issued and registered in the dealer's name or in the name of a person designated by the dealer.

### **“CHAPTER III**

#### **“VALID SHARES**

**“965.86.** A share of a class of the capital stock of a corporation is a valid share if

(a) it is acquired through a transaction on a stock exchange during a trading session;

(b) at the time of its acquisition, it is listed on a Canadian stock exchange;

(c) on the date of its acquisition, the class of shares of the capital stock of the corporation to which the share belongs is included in the list of the Autorité des marchés financiers and is not identified in the list established for the purposes of section 965.9.7.1; and

(d) as part of its acquisition, the certificate attesting to it is given to the dealer referred to in section 965.56 or issued and registered in the dealer's name or in the name of a person designated by the dealer.

**“965.87.** A share of a class of the capital stock of a corporation is also a valid share if

(a) it is acquired by an individual or a qualified mutual fund as first purchaser, other than a dealer acting as an intermediary or as a firm underwriter;

(b) at the time of its acquisition, it is listed on a Canadian stock exchange;

(c) it is issued by the corporation as part of a share issue referred to in the second paragraph of any of sections 965.105, 965.107 and 965.110;

(d) on the date of its acquisition, the class of shares of the capital stock of that corporation to which the share belongs is included in the list of the Autorité des marchés financiers and is not identified in the list established for the purposes of section 965.9.7.2; and

(e) as part of its acquisition, the certificate attesting to it is given to the dealer referred to in section 965.56 or issued and registered in the dealer's name or in the name of a person designated by the dealer.

**“965.88.** A corporation may obtain a designation of eligibility for the list of the Autorité des marchés financiers in respect of a share of a class of its capital stock if the Ministère du Revenu gives a favourable advance ruling in relation to that designation, confirming that the following conditions are satisfied on the date of the application for an advance ruling:

(a) the share is listed on a Canadian stock exchange and meets the requirements of paragraphs *a* to *c*, *f* and *g* of section 965.74; and

(b) the corporation would meet the requirements of section 965.90 if “on the date of the receipt for the final prospectus or of the exemption from filing a prospectus” were replaced by “on the date of the application for an advance ruling filed with the Ministère du Revenu”.

**“965.89.** A qualified issuing corporation that has made a public share issue and in respect of which a share of a class of its capital stock is a qualifying share because of the application of section 965.76, may request that the class of shares to which the share belongs be included in the list of the Autorité des marchés financiers.

## **“CHAPTER IV**

### **“QUALIFIED ISSUERS**

#### **“DIVISION I**

#### **“QUALIFIED ISSUING CORPORATIONS**

##### **“§1. — *Basic rules***

**“965.90.** A corporation making a public share issue is a qualified issuing corporation if, on the date of the receipt for the final prospectus or of the exemption from filing a prospectus,

(a) it is a Canadian corporation;

(b) its assets are less than \$100,000,000;

(c) its central management is in Québec and more than one-half of the wages paid to its employees, within the meaning of the regulations made under section 771, in its last taxation year ended before that date, were paid to employees of an establishment situated in Québec;

(d) throughout the preceding 12 months, it carried on a business and had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act (chapter V-1.1) nor persons related to such insiders; and

(e) not more than 50% of the value of its property, as shown in its financial statements submitted to the shareholders for its last taxation year ended before

that date, or, if such financial statements have not been prepared, or have not been prepared in accordance with generally accepted accounting principles, that would be shown if such financial statements had been prepared in accordance with generally accepted accounting principles, consists of the value of cash on hand or on deposit, shares, promissory notes, debentures, bonds, any other debt securities, guaranteed investment certificates, units of a mutual fund trust, units representing an undivided share in a project or property, subscription rights or purchasing rights to such shares that are not qualified investments described in section 965.92.

**“965.91.** For the purposes of paragraph *d* of section 965.90, a corporation is deemed to have had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act (chapter V-1.1) nor persons related to such insiders, if

(a) a class of shares of its capital stock is listed on a Canadian stock exchange throughout the 12-month period preceding the date of the receipt for the final prospectus or of the exemption from filing a prospectus; and

(b) a person, other than such an insider or a person related to such an insider, or a partnership provides the corporation, in the period described in paragraph *a*, with services under a service contract and the corporation would normally require the services of more than five full-time employees if those services were not provided.

**“965.92.** The qualified investments to which paragraph *e* of section 965.90 refers are

(a) voting shares representing not less than 20% of the voting shares of a particular corporation meeting the requirement of paragraph *e* of section 965.90;

(b) promissory notes, debentures, bonds or other debt securities issued by a particular corporation referred to in paragraph *a* and shares without voting rights of such a particular corporation;

(c) debentures, bonds or shares issued by a cooperative, other than a savings and credit union, meeting the requirement of paragraph *e* of section 965.90;

(d) promissory notes or other debt securities obtained in the ordinary course of its business and held by a bank, a body governed by the Insurance Companies Act (Statutes of Canada, 1991, chapter 47) or by the Act respecting insurance (chapter A-32), a corporation licensed or otherwise authorized under the laws of Canada or of a province to offer its services as a trustee, or any other corporation whose principal business is the lending of money or the purchasing of debts; and

(e) property described in an inventory by a corporation carrying on the activities of a dealer.

**“965.93.** For the purposes of paragraph *e* of section 965.90, the Minister may, for the purpose of determining whether the value of the corporation’s property that is referred to in that paragraph *e* does not exceed 50%, require from the issuing corporation any document the Minister deems necessary, including the filing of non-consolidated financial statements.

**“965.94.** A corporation making a public share issue is also a qualified issuing corporation if, on the date of the receipt for the final prospectus or of the exemption from filing a prospectus,

(a) it is a Canadian corporation whose head office or principal place of business is in Québec;

(b) substantially all of its property consists of shares of the capital stock of one or more of its subsidiary controlled corporations or of loans or advances granted to such subsidiary corporations; and

(c) one of the subsidiary corporations meets the requirements of paragraphs *a* to *c* and *e* of section 965.90 and, throughout the 12 preceding months, carried on a business and had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act (chapter V-1.1) nor persons related to such insiders.

For the purposes of subparagraph *c* of the first paragraph, a subsidiary is deemed to have had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act nor persons related to such insiders, if

(a) a class of shares of its capital stock is listed on a Canadian stock exchange throughout the 12-month period preceding the date of the receipt for the final prospectus or of the exemption from filing a prospectus; and

(b) a person, other than such an insider or a person related to such an insider, or a partnership provides the subsidiary, in the period described in subparagraph *a*, with services under a service contract and the subsidiary would normally require the services of more than five full-time employees if those services were not provided.

**“965.95.** A capital pool company making a public share issue may, where the distribution of shares is made in accordance with a receipt of the Autorité des marchés financiers, be designated by the Minister as a qualified issuing corporation if, on the date of the receipt for the final prospectus,

(a) it is a Canadian corporation;

(b) its assets are less than \$100,000,000;

(c) it would meet the requirements of paragraph *e* of section 965.90 if no reference was made to the corporation’s liquid assets to be used in connection with the carrying out of an eligible transaction;

(d) the major portion of the proceeds of the issue, as stated in the final prospectus or as may be inferred from it, will be used for the carrying out of an eligible transaction whose purpose is, directly or indirectly, to continue an existing business that, if it had been carried on by the corporation throughout the 12 preceding months, would have enabled the corporation to meet the requirements of paragraphs *c* and *d* of section 965.90; and

(e) the Minister is of the opinion that the public share issue complies with the objectives of this Title.

“§2. — *Amalgamations*

**“965.96.** For the purposes of paragraph *d* of section 965.90, if a corporation results from an amalgamation within the meaning of section 544 and a period of at least 12 months has not elapsed between the time of the amalgamation and the date of the receipt for the final prospectus or of the exemption from filing a prospectus, the requirement relating to the number of employees set out in that paragraph shall be replaced by the requirement that that corporation have, throughout the period from the time of the amalgamation to the date of the receipt for the final prospectus or of the exemption from filing a prospectus, not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act (chapter V-1.1) nor persons related to such insiders and for one of the predecessor corporations to have had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of that Act nor persons related to such insiders throughout the part of the 12-month period ending on the date of the receipt for the final prospectus or of the exemption from filing a prospectus that precedes the time of the amalgamation.

For the purposes of the first paragraph, a predecessor corporation is deemed to have had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act nor persons related to such insiders, if

(a) a class of shares of its capital stock is listed on a Canadian stock exchange throughout the part of the period described in the first paragraph; and

(b) a person, other than such an insider or a person related to such an insider, or a partnership provides the predecessor corporation, in the part of the period referred to in subparagraph *a*, with services under a service contract and that predecessor corporation would normally have required the services of more than five full-time employees if those services had not been provided.

The rules of the first and second paragraphs apply, with the necessary modifications, to the requirement relating to the carrying on of a business set out in paragraph *d* of section 965.90.

**“965.97.** For the purposes of section 965.96, if a predecessor corporation referred to in that section is itself a corporation resulting from an amalgamation

within the meaning of section 544, in this section referred to as the “original amalgamation”, and a period of at least 12 months has not elapsed between the time of the original amalgamation and the date of the receipt for the final prospectus or of the exemption from filing a prospectus, the requirement in its respect concerning the number of employees, for the part of the period described in the first paragraph of section 965.96, shall be replaced by the requirement that that corporation have had, throughout the part of that period between the time of the original amalgamation and the time of the amalgamation referred to in the first paragraph of section 965.96, not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act (chapter V-1.1) nor persons related to such insiders and for one of the predecessor corporations that were replaced by the original amalgamation to have had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of that Act nor persons related to such insiders throughout the part of the part of the period described in the first paragraph of section 965.96 within the 12-month period that ends on the date of the receipt for the final prospectus or of the exemption from filing a prospectus.

For the purposes of the first paragraph, a predecessor corporation is deemed to have had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act nor persons related to such insiders, if

(a) a class of shares of its capital stock is listed on a Canadian stock exchange throughout the part of the part of the period described in the first paragraph; and

(b) a person, other than such an insider or a person related to such an insider, or a partnership provides the predecessor corporation, in the part of the period referred to in subparagraph *a*, with services under a service contract and that predecessor corporation would normally have required the services of more than five full-time employees if those services had not been provided.

For the purposes of the first paragraph, if the predecessor corporation referred to lastly in that paragraph, or a predecessor corporation that is referred to lastly in that paragraph as a result of the application of this paragraph, is itself a corporation resulting from an amalgamation within the meaning of section 544 and a period of at least 12 months has not elapsed between the time of that amalgamation and the date of the receipt for the final prospectus or of the exemption from filing a prospectus, the rule set out in the first paragraph applies in relation to the requirement in its respect concerning the number of employees set out lastly in that paragraph.

The rules of the first, second and third paragraphs apply, with the necessary modifications, to the requirement relating to the carrying on of a business set out in paragraph *d* of section 965.90.



“§3. — *Windings-up*

**“965.98.** For the purposes of section 965.90, if a corporation making a public share issue does not meet the requirement relating to the number of employees set out in paragraph *d* of that section and a winding-up as described in section 556 of a subsidiary within the meaning of that section in respect of which the corporation is, immediately before the winding-up, the parent within the meaning of that section, terminates within the 12-month period immediately before the date of the receipt for the final prospectus or of the exemption from filing a prospectus, the requirement is replaced by the following requirements:

(a) the corporation shall, throughout the period from the time the winding-up terminates to the date of the receipt for the final prospectus or of the exemption from filing a prospectus, have not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act (chapter V-1.1) nor persons related to such insiders; and

(b) the subsidiary shall, throughout the part of the 12-month period ending on the date of the receipt for the final prospectus or of the exemption from filing a prospectus that precedes the time the winding-up terminates, have had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act nor persons related to such insiders.

For the purposes of subparagraph *b* of the first paragraph, a subsidiary is deemed to have had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act nor persons related to such insiders, if

(a) a class of shares of its capital stock is listed on a Canadian stock exchange throughout the part of the period described in that subparagraph *b*; and

(b) a person, other than such an insider or a person related to such an insider, or a partnership provides the subsidiary, in the part of the period referred to in subparagraph *a*, with services under a service contract and the subsidiary would normally have required the services of more than five full-time employees if those services had not been provided.

The rules of the first and second paragraphs apply, with the necessary modifications, to the requirement relating to the carrying on of a business set out in paragraph *d* of section 965.90.

**“965.99.** For the purposes of section 965.98, if the subsidiary, in this section referred to as the “particular subsidiary”, does not meet the requirement set out in subparagraph *b* of the first paragraph of that section and a winding-up as described in section 556 of a subsidiary within the meaning of that section, in this section referred to as the “other subsidiary”, in respect of

which the particular subsidiary is, immediately before the winding-up, the parent within the meaning of that section, terminates within the 12-month period immediately before the date of the receipt for the final prospectus or of the exemption from filing a prospectus, the requirement is replaced by the following requirements:

(a) the particular subsidiary shall, throughout the part of the period between the time the winding-up of the other subsidiary terminates and the time the winding-up referred to in the first paragraph of section 965.98 terminates, have had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act (chapter V-1.1) nor persons related to such insiders; and

(b) the other subsidiary shall, throughout the part of the period immediately before the date of the receipt for the final prospectus or of the exemption from filing a prospectus that precedes the time its winding-up terminates, have had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act nor persons related to such insiders.

For the purposes of subparagraph *b* of the first paragraph, the other subsidiary is deemed to have had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act nor persons related to such insiders, if

(a) a class of shares of its capital stock is listed on a Canadian stock exchange throughout the part of the period described in that subparagraph *b*; and

(b) a person, other than such an insider or a person related to such an insider, or a partnership provides the other subsidiary, in the part of the period referred to in subparagraph *a*, with services under a service contract and that other subsidiary would normally have required the services of more than five full-time employees if those services had not been provided.

For the purposes of the first paragraph, if the other subsidiary does not meet the requirement set out in subparagraph *b* of that paragraph and a winding-up as described in section 556 of a subsidiary within the meaning of that section, in this paragraph referred to as the “underlying subsidiary”, in respect of which the other subsidiary is, immediately before the winding-up, the parent within the meaning of that section, terminates within the 12-month period described in the first paragraph, the rules set out in subparagraphs *a* and *b* of the first paragraph apply to the other subsidiary and to the underlying subsidiary, respectively.

The rules of the first, second and third paragraphs apply, with the necessary modifications, to the requirement relating to the carrying on of a business set out in paragraph *d* of section 965.90.

“§4. — *Continuation of a business*

“**965.100.** For the purposes of section 965.90, if a period of at least 12 months has not elapsed between the time of the beginning of the carrying on of a particular business by a corporation and the date of the receipt for the final prospectus or of the exemption from filing a prospectus, and the particular business carried on by the corporation may, if the Minister so decides, be considered in fact to consist mainly in the continuation of a business or part of a business carried on by another taxpayer before the time of the beginning of the carrying on of the particular business by the corporation, the requirement relating to the number of employees set out in paragraph *d* of section 965.90 shall be replaced by the requirement to have, throughout the period from the time of the beginning of the carrying on of the particular business by the corporation to the date of the receipt for the final prospectus or of the exemption from filing a prospectus, not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act (chapter V-1.1) nor persons related to such insiders and, immediately before the time of the beginning of the carrying on of the particular business by the corporation, for the other taxpayer to have had, in relation to that business or part of a business, not fewer than five full-time employees who are neither insiders within the meaning of section 89 of that Act nor persons related to such insiders throughout the part of the 12-month period ending on the date of the receipt for the final prospectus or of the exemption from filing a prospectus that precedes the beginning of the carrying on of the particular business by the corporation.

For the purposes of the first paragraph, the continuation of a business or part of a business carried on by another taxpayer before the beginning of the carrying on, by a corporation, of the particular business must result from

(a) the acquisition or rental, by the corporation, of property from the other taxpayer who, throughout the part of the period described in the first paragraph that precedes the acquisition or rental, carried on a business in which the other taxpayer used that property; or

(b) the carrying on, by the corporation, of a new business that may reasonably be considered in fact to consist in the extension of a business or part of a business carried on by the other taxpayer.

For the purposes of the first paragraph, the other taxpayer is deemed to have had not fewer than five full-time employees who are neither insiders within the meaning of section 89 of the Securities Act nor persons related to such insiders, if

(a) a class of shares of its capital stock is listed on a Canadian stock exchange throughout the part of the period described in the first paragraph; and

(b) a person, other than such an insider or a person related to such an insider, or a partnership provides the other taxpayer, in the period referred to in subparagraph *a*, with services under a service contract and that other taxpayer would normally have required the services of more than five full-time employees if those services had not been provided.

“§5. — *Various rules*

**“965.101.** For the purposes of paragraph *c* of section 965.90, if a corporation has, within the 365 days preceding the date of the receipt for the final prospectus or of the exemption from filing a prospectus, modified its usual and accepted fiscal period, the reference to its last taxation year ended before that date is to be replaced by a reference to each of the taxation years ended within the 365 days preceding the date of the receipt for the final prospectus or of the exemption from filing a prospectus.

**“965.102.** For the purposes of paragraph *e* of section 965.90, the following rules apply:

(a) in the case of a corporation in its first fiscal period, except in the case provided for in paragraph *c*, the reference to its financial statements submitted to the shareholders for its last taxation year ended before the date of the receipt for the final prospectus or of the exemption from filing a prospectus is to be replaced by a reference to its financial statements at the beginning of its first fiscal period;

(b) in the case of a corporation having modified its usual and accepted fiscal period within the 365 days preceding the date of the receipt for the final prospectus or of the exemption from filing a prospectus otherwise than as a result of an amalgamation within the meaning of section 544, the reference to its financial statements submitted to the shareholders for its last taxation year ended before the date of the receipt for the final prospectus or of the exemption from filing a prospectus is to be replaced by a reference to its financial statements submitted to the shareholders for each of the taxation years ended within the 365 days preceding the date of the receipt for the final prospectus or of the exemption from filing a prospectus; and

(c) in the case of a corporation resulting from an amalgamation within the meaning of section 544 within the 365 days preceding the date of the receipt for the final prospectus or of the exemption from filing a prospectus, the reference to its financial statements submitted to the shareholders for its last taxation year ended before the date of the receipt for the final prospectus or of the exemption from filing a prospectus is to be replaced by a reference to its financial statements submitted to the shareholders at the beginning of its first fiscal period if the corporation is in its first fiscal period, or for each of the taxation years ended since the time of the amalgamation in other cases, and to the financial statements submitted to the shareholders of the predecessor corporation referred to in section 965.96 or 965.97 for each of its taxation years ended within the 365 days preceding the time of the amalgamation.

**“965.103.** For the purposes of paragraph *e* of section 965.90, if the major portion of the proceeds of a public share issue is used for the financing of scientific research and experimental development carried on in Québec, the corporation may elect to have the following rules apply:

(a) the reference to its financial statements submitted to the shareholders for its last taxation year ended before the date of the receipt for the final prospectus or of the exemption from filing a prospectus is replaced, where applicable, by a reference to its last interim financial statements, before that date, as audited and submitted to the shareholders;

(b) that paragraph *e* is to be read without reference to “cash on hand or on deposit,” and “promissory notes, debentures, bonds, any other debt securities, guaranteed investment certificates,”; and

(c) the value of the property mentioned in that paragraph *e* is increased by the amount of expenditures for scientific research and experimental development carried on by the corporation in Québec in the taxation years ended in a 60-consecutive-month period ending on the date of the financial statements considered and, in the case of interim financial statements, is also increased by the amount of expenditures for scientific research and experimental development carried on in Québec in the period covered by those interim financial statements.

**“965.104.** For the purposes of paragraph *e* of section 965.90, if, between the end of the last taxation year ended before the date of the receipt for the final prospectus or of the exemption from filing a prospectus and the date of that receipt or exemption, a substantial change occurs in relation to the composition of a corporation’s property and the Minister is of the opinion that the objectives of this Title, except that paragraph *e*, are met, the Minister may, for the purpose of determining whether the value of the corporation’s property that is referred to in that paragraph *e* does not exceed 50%, consult any document the Minister considers appropriate in the circumstances, including the last audited interim financial statements of the corporation, prepared before the date of the receipt for the final prospectus or of the exemption from filing a prospectus and submitted to the shareholders.

For the purposes of the first paragraph, a substantial change in relation to the composition of a corporation’s property means a decrease of at least 25 points between the percentage representing the proportion that the value of the property referred to in paragraph *e* of section 965.90 is of the total value of its property, as shown in its financial statements submitted to the shareholders for its last taxation year ended before the date of the receipt for the final prospectus or of the exemption from filing a prospectus, or, if such financial statements have not been prepared, or have not been prepared in accordance with generally accepted accounting principles, that would be shown if such financial statements had been prepared in accordance with generally accepted accounting principles, and the percentage representing the proportion that the value of the property referred to in that paragraph *e* is of the total value of its

property, as shown in its last interim financial statements, or, if such financial statements have not been prepared, in any other document the Minister considers appropriate in the circumstances.

*“§6. — Purchase or redemption of shares and anti-avoidance rule*

**“965.105.** For the purposes of this Title, “qualified issuing corporation” does not include a corporation that, in the period beginning on the first day of the fifth calendar year preceding the calendar year in which it is granted a receipt for a final prospectus or an exemption from filing a prospectus in respect of a share issue and ending at the time the receipt or exemption is granted, makes a transaction consisting in the purchase or redemption in any manner whatever, directly or indirectly, of a share of a class of its capital stock other than a share described in section 965.106.

The first paragraph applies during the period referred to in the first paragraph until the corporation has, in respect of each transaction, made an issue of shares of its capital stock that meet the requirement of paragraph *b* of section 965.74 and are not qualifying shares, for an amount equal to or greater than the amount of the transaction.

**“965.106.** The share to which section 965.105 refers is

(a) a share that is a fractional share;

(b) a share that can, under the conditions pertaining to its issue, be redeemed by the issuing corporation or purchased by anyone, directly or indirectly, in any manner whatever, and that was not received as part of a large distribution of surplus or as a result of a transaction referred to in any of sections 301, 536, 541 and 544 in respect of a share meeting, at the time of its issue, the requirement of paragraph *b* of section 965.74 or in respect of a share substituted for such a share; or

(c) a share purchased or redeemed to meet the requirements of an Act or the regulations governing a sector of activities.

**“965.107.** For the purposes of this Title, “qualified issuing corporation” does not include a corporation whose shares of a class of its capital stock are, in the period beginning on the first day of the fifth calendar year preceding the calendar year in which it is granted a receipt for a final prospectus or an exemption from filing a prospectus in respect of a share issue and ending at the time the receipt or exemption is granted, the subject of a particular transaction consisting of a transaction or operation or of a series of transactions or operations if, in the opinion of the Minister, it is reasonable to believe that the particular transaction is equivalent to the redemption of a share of a class of its capital stock other than a share described in section 965.108.

The first paragraph applies during the period referred to in the first paragraph until the corporation has, in respect of each particular transaction and for an

amount determined in section 965.109, made an issue of shares of its capital stock that meet the requirement of paragraph *b* of section 965.74 and are not qualifying shares or until shares of the capital stock of the corporation have been the subject, in respect of each particular transaction, of a transaction or operation or of a series of transactions or operations, for an amount determined in section 965.109, if, in the opinion of the Minister, it is reasonable to believe that the transaction or operation or the series of transactions or operations is equivalent to the issue of shares of the capital stock of the corporation that meet the requirement of that paragraph *b*.

The Minister may exercise the power provided for in the first paragraph, in particular, when shares of the capital stock of a corporation that are not described in section 965.108 are acquired by a person related to the corporation.

**“965.108.** The share to which section 965.107 refers is

(a) a share that is a fractional share;

(b) a share that can, under the conditions pertaining to its issue, be redeemed by the issuing corporation or purchased by anyone, directly or indirectly, in any manner whatever, and that was not received as part of a large distribution of surplus or as a result of a transaction referred to in any of sections 301, 536, 541 and 544, in relation to a share meeting, at the time of its issue, the requirement of paragraph *b* of section 965.74 or in relation to a share substituted for such a share; or

(c) a share that is the subject of a transaction or operation or of a series of transactions or operations if the transaction or operation or the series of transactions or operations is effected to meet the requirements of an Act or the regulations governing a sector of activities.

**“965.109.** The amount to which the second paragraph of section 965.107 refers is an amount that, in the opinion of the Minister, is equal to or greater than the amount that would have been disbursed for the acquisition of the shares that, but for a transaction or operation or a series of transactions or operations referred to in the first paragraph of that section, would have been purchased or redeemed.

**“965.110.** For the purposes of this Title, “qualified issuing corporation” does not include a corporation the net shareholders’ equity of which, in the period beginning on the first day of the fifth calendar year preceding the calendar year in which it is granted a receipt for a final prospectus or an exemption from filing a prospectus in respect of a public share issue and ending at the time the receipt or exemption is granted, is affected, directly or indirectly, in any manner whatever, as a result of a particular transaction consisting of a transaction or operation or of a series of transactions or operations other than a transaction or operation or a series of transactions or operations described in section 965.112 if, in the opinion of the Minister, it is reasonable to believe that the particular transaction is equivalent to the



redemption of a share of a class of its capital stock other than a share described in section 965.111.

The first paragraph applies during the period referred to in the first paragraph until the corporation has, in respect of each particular transaction, made an issue of shares of its capital stock that meet the requirement of paragraph *b* of section 965.74 and are not qualifying shares or until the net shareholders' equity of the corporation has been the subject, in respect of each particular transaction, of a transaction or operation or of a series of transactions or operations if, in the opinion of the Minister, it is reasonable to believe that the transaction or operation or the series of transactions or operations is equivalent to the issue of such shares of the capital stock of the corporation for an amount that is equal to or greater than the amount by which the net shareholders' equity was modified.

Without restricting the generality of the preceding paragraphs, the Minister may render such a decision, in particular, when a corporation makes a large distribution of its surplus, except such a distribution in shares of its capital stock.

**“965.111.** The share to which section 965.110 refers is

(a) a share that is a fractional share; or

(b) a share that can, under the conditions pertaining to its issue, be redeemed by the issuing corporation or purchased by anyone, directly or indirectly, in any manner whatever, and that was not received as part of a large distribution of surplus or as a result of a transaction referred to in any of sections 301, 536, 541 and 544, in relation to a share meeting, at the time of its issue, the requirement of paragraph *b* of section 965.74 or in relation to any share substituted for such a share.

**“965.112.** A transaction or operation or a series of transactions or operations referred to in the first paragraph of section 965.110 is a transaction or operation or a series of transactions or operations effected to meet the requirements of an Act or the regulations governing a sector of activities.

**“965.113.** For the purposes of this Title, a corporation that has made a particular transaction referred to in the first paragraph of any of sections 965.105, 965.107 and 965.110, is not required to meet the requirement set out in the second paragraph of those sections, where applicable, in respect of the particular transaction, if the aggregate of the amounts by which its capital stock has been reduced as a result of the particular transaction and of any other transaction consisting of a particular transaction referred to in the first paragraph of those sections that is made during the period that begins on the three hundred and sixty-fourth day preceding the day of the particular transaction and ends immediately before the particular transaction is made is less than 5% of the aggregate of the following amounts, determined immediately before the particular transaction is made:



(a) the paid-up capital relating to the shares of its capital stock, other than shares described in sections 965.106, 965.108 and 965.111; and

(b) the paid-up capital relating to the subscription rights in the shares referred to in paragraph *a*.

**“965.114.** For the purposes of this Title, a corporation that plans to make a share issue that can be included in an SME growth stock plan as qualifying shares, no share of the capital stock of which was issued with a stipulation that it could be included in such a plan nor was issued, as a result of a transaction referred to in section 541 or 544, other than a transaction referred to in section 555.1, in replacement of or substitution for a share issued with such a stipulation, and that makes before the date of the receipt for the final prospectus or of the exemption from filing a prospectus relating to its issue or has made a particular transaction referred to in the first paragraph of any of sections 965.105, 965.107 and 965.110, is not required to meet the requirement set out in the second paragraph of those sections, where applicable, in respect of the particular transaction, if the aggregate of the amounts by which its capital stock has been reduced as a result of the particular transaction and of any other transaction consisting of a particular transaction referred to in the first paragraph of those sections that is made during the period that begins on the three hundred and sixty-fourth day preceding the day of the particular transaction and ends immediately before the particular transaction is made is less than 10% of the amount of the share issue that the corporation plans to make.

**“965.115.** Despite sections 965.105 to 965.114, a corporation may make a transaction referred to in those sections without having to meet the requirement set out in the second paragraph of any of sections 965.105, 965.107 and 965.110 if, in the opinion of the Minister, an undesirable situation would otherwise result.

**“965.116.** For the purposes of this Title, “qualified issuing corporation” does not include a corporation that effects a transaction or operation or a series of transactions or operations if, in the opinion of the Minister, it is reasonable to believe that the transaction or operation or the series of transactions or operations was effected to meet the requirements set out in paragraph *d* or *e* of section 965.90.

## **“DIVISION II**

### **“QUALIFIED MUTUAL FUNDS**

**“965.117.** A qualified mutual fund is a mutual fund that is described in section 1.1 of Regulation 14-501Q respecting definitions approved by ministerial order 2005-22 (2005, G.O. 2, 3664) and that meets the requirements of this division.

**“965.118.** A qualified mutual fund shall be established in Québec and the trustee or manager of the qualified mutual fund shall be resident in Canada and maintain an establishment in Québec.

**“965.119.** When making, in any year, a public security issue consisting of securities that may be included in an SME growth stock plan, a qualified mutual fund shall stipulate in the final prospectus relating to their issue that it undertakes to meet the following requirements:

(a) to acquire, on or before 31 December in the year, qualifying shares with the proceeds or expected proceeds, for the year, of the public security issue, whose adjusted cost is not less than the adjusted cost of the aggregate of all qualifying securities issued by the qualified mutual fund in the year and constituting valid qualifying securities;

(b) to be the owner, on 31 December in the year and in each of the following three years, of qualifying shares or valid shares, other than qualifying shares or valid shares having already been used, in respect of the same year, for the purposes of this paragraph, and whose adjusted cost is not less than the adjusted cost of the aggregate of all qualifying securities issued by the qualified mutual fund in the year and not redeemed by the qualified mutual fund on 31 December in the year and on 31 December in each of the three years following the year, respectively, as the case may be; and

(c) to ensure, in relation to a qualifying share acquired by the qualified mutual fund, that no coverage deficiency amount may be computed in respect of an individual who has acquired a qualifying security as part of a public security issue.

For the purposes of subparagraph *a* of the first paragraph and section 965.120, the expected proceeds of a public security issue made by a qualified mutual fund for a year are the proceeds of such a public security issue or a portion of such proceeds, as the case may be, to the extent that

(a) the public security issue ends on or before 31 December of that year; and

(b) the proceeds or the portion of the proceeds is used to compensate or repay the acquisition cost of qualifying shares acquired by the qualified mutual fund at a particular time during the 90-day period that precedes the date on which the public security issue ends.

**“965.120.** A qualified mutual fund that intends to make a public security issue and to acquire qualifying shares with the expected proceeds of the public security issue shall stipulate in the final prospectus relating to the issue that it undertakes to satisfy the conditions set out in subparagraphs *a* and *b* of the second paragraph of section 965.119.

**“965.121.** A qualified mutual fund that makes, in a particular year, a public security issue consisting of securities that may be included in an SME growth stock plan and is making its first such public security issue may, instead of stipulating in the final prospectus relating to their issue that it undertakes to meet the requirements set out in section 965.119, elect to stipulate in the final prospectus that it undertakes to meet the following requirements or may, once it has stipulated that it undertakes to meet the requirements set out in section 965.119, elect instead to undertake to meet the following requirements by sending to the Minister and to the Autorité des marchés financiers a written notice to that effect on or before 31 December in the year in which the receipt for the final prospectus relating to their issue was obtained:

(a) to use a determined percentage, which must be the same throughout any particular year during which securities are issued as part of the security issue, not lower than 50%, of the proceeds, for the particular year, of the issue of securities not redeemed by the qualified mutual fund on or before 31 December in the particular year, to acquire, on or before 31 December in the year following the particular year, qualifying shares that are issued by qualified issuing corporations;

(b) to cause the proportion, expressed as a percentage, that the adjusted cost is of the cost, determined without reference to the borrowing costs, brokerage or custody fees or other similar costs, to the qualified mutual fund, of the aggregate of all qualifying shares described in paragraph *a* that the qualified mutual fund has undertaken to acquire in accordance with that paragraph *a* on or before 31 December in the year following the particular year, to be equal to or greater than the determined percentage, not lower than 50%, stated in that respect by the qualified mutual fund, in respect of the public security issue, in the final prospectus relating to their issue or in the written notice to be sent by the qualified mutual fund to the Minister and to the Autorité des marchés financiers, as the case may be;

(c) to acquire, on or before 31 December in the particular year, qualifying shares with the proceeds, for the particular year, of the public security issue, that are not the subject of the undertaking under paragraph *a* and are not qualifying shares having already been used, in respect of the particular year, for the purposes of paragraph *d*, and whose adjusted cost is not less than the amount by which the adjusted cost of the aggregate of all qualifying securities issued by the qualified mutual fund in the particular year and constituting valid qualifying securities exceeds the particular amount equal to the lesser of the proceeds of the issue of securities constituting, for the particular year, valid qualifying securities and the amount obtained by applying to the portion, that is the subject of the undertaking under paragraph *a*, of the proceeds, for the particular year, of the public security issue, the percentage determined under paragraph *b* in respect of the public security issue;

(d) to acquire, on or before 31 December in the year following the particular year, qualifying shares described in paragraph *a* with the proceeds, for the

particular year, of the public security issue, other than any such qualifying shares having already been used, in respect of the particular year, for the purposes of paragraph *c*, and whose adjusted cost is equal to or greater than the particular amount referred to in paragraph *c* in respect of the particular year;

(*e*) to be the owner, on 31 December in the particular year and in each of the following three years, of shares that are qualifying shares or valid shares, other than qualifying shares or valid shares having already been used, in respect of the same year, for the purposes of paragraph *f* or of this paragraph, and whose adjusted cost is equal to or greater than the amount by which the adjusted cost of the aggregate of all qualifying securities issued by the qualified mutual fund in the particular year and not redeemed by the qualified mutual fund on 31 December in the particular year and on 31 December in each of the three years following the particular year, respectively, as the case may be, exceeds the particular amount referred to in paragraph *c* in respect of the particular year;

(*f*) to be the owner, on 31 December in each of the four years following the particular year, of shares that are qualifying shares or valid shares, other than qualifying shares or valid shares having already been used, in respect of the same year, for the purposes of this paragraph, and whose adjusted cost is equal to or greater than the particular amount referred to in paragraph *c* in respect of the particular year; and

(*g*) to ensure, in relation to a qualifying share acquired by the qualified mutual fund, that no coverage deficiency amount may be computed in respect of an individual who has acquired a qualifying security as part of a public security issue.

**“965.122.** If a qualified mutual fund stipulates, in a final prospectus relating to a public security issue, the percentage to be used for the purposes of paragraph *a* of section 965.124, it shall also stipulate the portion of the adjusted cost of the qualifying security to be considered as the portion that may reasonably be allocated to the purchase of qualifying shares referred to in section 965.123.

## **“CHAPTER V**

### **“ADJUSTED COST**

**“965.123.** The adjusted cost of a qualifying share to an individual or a qualified mutual fund is the cost of the qualifying share to the individual or the qualified mutual fund, determined without reference to the borrowing costs, brokerage or custody fees or other similar costs related to the qualifying share.

**“965.124.** The adjusted cost of a qualifying security to an individual is the amount obtained by multiplying the cost of the security to the individual,

determined without reference to the borrowing costs, brokerage or custody fees or other similar costs related to the security, by

(a) the percentage stipulated in that respect in the final prospectus relating to its issue; or

(b) if it is so stipulated in the final prospectus relating to its issue, the percentage determined not later than 60 days after the year of its issue and equal to such proportion as is represented,

i. in respect of a qualified mutual fund that has undertaken to meet the requirements set out in section 965.119 in respect of the public security issue as part of which the qualifying security was issued, by the proportion that the adjusted cost of the aggregate of all qualifying shares acquired in that year by the qualified mutual fund with the proceeds of the public issue of securities that are valid qualifying securities in respect of the year is of the proceeds of the issue, and

ii. in respect of a qualified mutual fund that has undertaken to meet the requirements set out in section 965.121 in respect of the public security issue as part of which the qualifying security was issued, by the proportion that the aggregate of the adjusted cost of the aggregate of all qualifying shares that are the subject of the undertaking given by the qualified mutual fund in respect of the public security issue in accordance with paragraph *a* of that section and that may be acquired by it for an amount equal to the particular amount referred to in paragraph *c* of that section in respect of the year, and the adjusted cost of the aggregate of all qualifying shares acquired by the qualified mutual fund in that year with that portion of the proceeds of the public issue of securities that are valid qualifying securities in respect of that year in excess of the particular amount is of the proceeds of the public issue of securities that are valid qualifying securities in respect of that year.

**“965.125.** The adjusted cost of a share that is a valid share to an individual or a qualified mutual fund is equal to the cost of the share to the individual or the qualified mutual fund, determined without reference to the borrowing costs, brokerage or custody fees or other similar costs related to the share.

## **“CHAPTER VI**

### **“DEDUCTION**

**“965.126.** An individual resident in Québec on 31 December in a year who acquires during the year a qualifying share or qualifying security that the individual includes in an SME growth stock plan under which the individual is a beneficiary, may deduct in computing the individual’s taxable income for the year, in respect of the aggregate of such plans, an amount not exceeding the lesser of the amounts determined by the following formulas:

(a)  $A + B$ ; and

(b)  $(C - D) - (E - F)$ .

In the formulas in the first paragraph,

(a) A is the adjusted cost of the qualifying shares that the individual acquired during the year and included in those plans on or before 31 January of the following year;

(b) B is the adjusted cost of the qualifying securities that the individual acquired during the year and included in those plans on or before 31 January of the following year, and that are valid qualifying securities in respect of the year;

(c) C is the adjusted cost of the shares and securities included in those plans, at the end of the year, including those that the individual acquired in the year and included in those plans on or before 31 January of the following year;

(d) D is the individual's coverage deficiency amounts for the year and for each of the preceding three years;

(e) E is the amounts that the individual deducted under section 726.4.0.1 for the preceding three years; and

(f) F is any amount described in section 310 that the individual was required to include in computing the individual's income for the preceding two years in respect of an SME growth stock plan.

**“965.127.** The amount of the deduction under section 965.126 in respect of an individual is not to exceed 10% of the individual's total income for the year.

## **“CHAPTER VII**

### **“INCLUSION**

**“965.128.** An individual resident in Québec on 31 December in a year who withdraws during the year a share or security from an SME growth stock plan under which the individual is a beneficiary, is required to include in computing the individual's income for the year, in respect of the aggregate of such plans, the lesser of the amounts determined by the following formulas:

(a)  $A + B$ ; and

(b)  $(C - D) - (E - F)$ .

In the formulas in the first paragraph,

(a) A is the adjusted cost of the shares and securities withdrawn by the individual from those plans during the year;

(b) B is the individual's coverage deficiency amounts for the year;

(c) C is the amounts that the individual deducted under section 726.4.0.1 for the preceding three years;

(d) D is any amount described in section 310 that the individual was required to include in computing the individual's income for the preceding two years in respect of an SME growth stock plan;

(e) E is the adjusted cost of the shares and securities included in those plans, at the end of the year, including those that the individual acquired in the year and included in those plans during the month of January of the following year; and

(f) F is the individual's coverage deficiency amounts for the year and for each of the preceding three years.

**“965.129.** A coverage deficiency amount in respect of an individual means, in respect of a particular withdrawal from an SME growth stock plan at a particular time, the amount determined by the formula

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

In the formula in the first paragraph,

(a) A is the adjusted cost of the qualifying shares withdrawn from the plan at the particular time referred to in the first paragraph;

(b) B is the adjusted cost of the qualifying securities withdrawn from the plan at the particular time referred to in the first paragraph;

(c) C is the adjusted cost of the qualifying shares acquired after the particular time referred to in the first paragraph and included in the plan within 21 days after that time in relation to the particular withdrawal; and

(d) D is the adjusted cost of the qualifying securities acquired after the particular time referred to in the first paragraph and included in the plan within 21 days after that time in relation to the particular withdrawal.

## **“CHAPTER VIII**

### **“SPECIAL CASES**

**“965.130.** Subject to the second paragraph, the deemed disposition, under any of sections 299, 436 and 440, of a share included in an SME growth stock plan does not entail the withdrawal of the share from the plan.

If an amount was deducted for a year under section 726.4.0.1 in respect of a particular security that is a qualifying share or a qualifying security and if the deduction relates, directly or through a qualified mutual fund, to shares of a corporation that became a bankrupt in a particular year, the particular security is deemed withdrawn from the SME growth stock plan on 1 January of the fourth year following the year of the deduction or, if it is later, at the time in the particular year when the corporation became a bankrupt.

**“965.131.** The splitting or replacement of a qualifying share included in an SME growth stock plan, as a result of a transaction referred to in any of sections 536, 541 and 544, without any consideration other than a share, does not entail the withdrawal of the qualifying share from the plan if the requirement set out in section 965.75 is met in relation to each share issued in respect of the qualifying share that is split or replaced.

In such a case, each new share so issued is deemed to be a qualifying share that was included in an SME growth stock plan at the same time as the qualifying share that is split or replaced.

In any other case, the qualifying share that is split or replaced is deemed to be withdrawn from the SME growth stock plan at the time of the splitting or replacement, at the adjusted cost determined in its respect immediately before that time.

**“965.132.** In the case provided for in the second paragraph of section 965.131, the adjusted cost of each qualifying share that is split or replaced, or of each new share that is issued, is equal to the adjusted cost of the qualifying share that is split or replaced, determined immediately before the splitting or replacement, divided by the number of shares resulting from the splitting or replacement.

**“965.133.** In the case of the splitting or replacement of a qualifying share owned by a qualified mutual fund, as a result of a transaction referred to in any of sections 536, 541 and 544, without any consideration other than a share, the following rules apply:

(a) each new share so issued is deemed to be a qualifying share acquired by the qualified mutual fund at the same time and with the same funds as the qualifying share that is split or replaced; and

(b) the adjusted cost of the qualifying share that is split or replaced, or of each new share that is issued, is equal to the adjusted cost of the qualifying share that is split or replaced, determined immediately before the splitting or replacement, divided by the number of shares resulting from the splitting or replacement.”

(2) Subsection 1 has effect from 22 April 2005. However,



(1) when section 965.55 of the Act applies before 14 September 2005, the definition of “public share issue” in the first paragraph of that section reads as if “in subsection 2 of section 2.10 of Regulation 45-106 respecting prospectus and registration exemptions approved by ministerial order 2005-20 (2005, G.O. 2, 3664)” was replaced by “in section 51 of the Securities Act”;

(2) when section 965.76 of the Act applies before 14 September 2005,

(a) paragraph *a* of that section reads as if “in subsection 2 of section 2.10 of Regulation 45-106 respecting prospectus and registration exemptions approved by ministerial order 2005-20 (2005, G.O. 2, 3664)” was replaced by “in section 51 of the Securities Act (chapter V-1.1)”, and

(b) paragraph *d* of that section is to be replaced by the following paragraph:

“(d) on or before 10 days after the day of the distribution of the share, a copy of the notice provided for in section 46 of the Securities Act was filed with the Minister, accompanied by the certificate described in section 965.78, unless the issuing corporation makes a first public share issue under this Title in accordance with section 51 of that Act; and”;

(3) when section 965.77 of the Act applies before 14 September 2005, that section reads as if “with subsection 2 of section 2.10 of Regulation 45-106 respecting prospectus and registration exemptions approved by ministerial order 2005-20 (2005, G.O. 2, 3664)” was replaced by “with section 51 of the Securities Act (chapter V-1.1)”;

(4) when section 965.78 of the Act applies before 14 September 2005, that section reads as if “in subsection 2 of section 2.10 of Regulation 45-106 respecting prospectus and registration exemptions approved by ministerial order 2005-20 (2005, G.O. 2, 3664)” was replaced by “in section 51 of the Securities Act (chapter V-1.1)”;

(5) when section 965.117 of the Act applies before 14 September 2005, it is to be replaced by the following section:

**“965.117.** A qualified mutual fund is an unincorporated mutual fund or a mutual fund within the meaning of the Securities Act (chapter V-1.1) that meets the requirements of this division.”

**81.** Section 966 of the Act is amended by replacing “réalisation” in the portion of paragraph *b.3* before subparagraph *i* in the French text by “résiliation”.

**82.** (1) Section 985.1.0.1 of the Act, enacted by section 216 of chapter 38 of the statutes of 2005, is amended by replacing “*b.1*” in paragraph *c* by “*d*”.

(2) Subsection 1 applies to a taxation year that begins after 22 March 2004.

**83.** (1) Section 985.1.0.2 of the Act, enacted by section 216 of chapter 38 of the statutes of 2005, is amended by replacing “*a.1*” in the second paragraph by “*b*”.

(2) Subsection 1 applies to a taxation year that begins after 22 March 2004.

**84.** (1) Section 985.9 of the Act, replaced by section 220 of chapter 38 of the statutes of 2005, is amended by replacing “*i.*” and “*ii.*” in the third paragraph by “(*a*)” and “(*b*)”, respectively.

(2) Subsection 1 applies to a taxation year that begins after 22 March 2004.

**85.** (1) Section 985.9.1 of the Act, replaced by section 221 of chapter 38 of the statutes of 2005, is amended by replacing “*a.1*” in the portion before paragraph *a* by “*a*”.

(2) Subsection 1 applies to a taxation year that begins after 22 March 2004.

**86.** Section 1000 of the Act is amended by inserting “of the succession, the executor” after “liquidator” in paragraph *d* of subsection 2.

**87.** (1) Section 1029.6.0.0.1 of the Act, amended by section 212 of chapter 1 of the statutes of 2005, by section 141 of chapter 23 of the statutes of 2005 and by section 234 of chapter 38 of the statutes of 2005, is again amended by inserting “II.6.0.1.8,” after “II.6.0.1.7,” in subparagraph *b* of the second paragraph.

(2) Subsection 1 has effect from 1 January 2005.

**88.** (1) Section 1029.6.0.1 of the Act, amended by section 213 of chapter 1 of the statutes of 2005 and by section 142 of chapter 23 of the statutes of 2005, is again amended

(1) by replacing “II.6.0.3” in paragraphs *a* and *b* by “II.6.0.1.8”;

(2) by inserting “II.6.0.1.8 and” after “any of Divisions” in paragraph *c*.

(2) Subsection 1 has effect from 1 January 2005.

**89.** (1) Section 1029.6.0.1.2.1 of the Act, enacted by section 143 of chapter 23 of the statutes of 2005, is amended by replacing “II.6.0.3” by “II.6.0.1.8”.

(2) Subsection 1 has effect from 1 January 2005.

**90.** (1) Section 1029.6.0.1.2.2 of the Act, enacted by section 143 of chapter 23 of the statutes of 2005, is amended

(1) by replacing “II.6.0.3” in subparagraph i of subparagraph *a* and subparagraph *b* of the first paragraph by “II.6.0.1.8”;

(2) by replacing “or 1029.8.36.4” in subparagraph ii of subparagraph *a* of the first paragraph and the second paragraph by “or section 1029.8.36.4”.

(2) Paragraph 1 of subsection 1 has effect from 1 January 2005.

(3) Paragraph 2 of subsection 1 has effect from 22 April 2005.

**91.** (1) Section 1029.6.0.1.2.3 of the Act, enacted by section 143 of chapter 23 of the statutes of 2005, is amended by replacing “II.6.0.3” in subparagraph *b* of the first paragraph by “II.6.0.1.8”.

(2) Subsection 1 has effect from 1 January 2005.

**92.** (1) Section 1029.6.0.1.2.4 of the Act, enacted by section 143 of chapter 23 of the statutes of 2005, is amended

(1) by replacing “II.6.0.3” in paragraph *a* by “II.6.0.1.8”;

(2) by replacing paragraph *b* by the following paragraph:

“(b) the part of the particular salaries or wages that may reasonably be considered, for the purposes of a particular provision of any of those divisions, to be included in computing an expenditure in respect of which a corporation is deemed to have paid an amount to the Minister under this chapter for any taxation year corresponds, in relation to a particular amount deemed to have been paid to the Minister by the corporation under this chapter, to the amount by which the portion, attributable to the particular salaries or wages, of the aggregate of the salaries or wages that were taken into account in computing the amount used as a basis for computing the particular amount exceeds the portion, attributable to the particular salaries or wages, of the aggregate of any contract payment, within the meaning of paragraph *c*, of any government assistance and of any non-government assistance that was taken into account in computing the amount used as a basis for computing the particular amount; and”;

(3) by adding the following paragraph after paragraph *b*:

“(c) “contract payment” has the meaning assigned by section 1029.8.17 or 1029.8.17.0.1, by the first paragraph of section 1029.8.36.0.17 or by section 1029.8.36.4, as the case may be.”;

(4) by adding the following paragraph:

“Parts III.1.1.7 and III.10.1.2 to III.10.1.8 apply as if a contract payment, within the meaning of subparagraph *c* of the first paragraph, was government assistance.”

(2) Paragraph 1 of subsection 1 has effect from 1 January 2005.

(3) Paragraphs 2 to 4 of subsection 1 apply in respect of an expenditure incurred after 31 December 2003. However, when subparagraph *c* of the first paragraph of section 1029.6.0.1.2.4 of the Act applies before 22 April 2005, it reads as if “, by the first paragraph of section 1029.8.36.0.17 or by section 1029.8.36.4” was replaced by “or by the first paragraph of section 1029.8.36.0.17 or 1029.8.36.4”.

**93.** (1) The Act is amended by inserting the following section after section 1029.6.0.1.8, enacted by section 144 of chapter 23 of the statutes of 2005:

**“1029.6.0.1.9.** If a taxpayer is deemed, under a provision of this chapter, except a provision of Division II.6.5.3 or II.6.5.4, to have paid an amount to the Minister on the taxpayer’s balance-due day for a taxation year, in relation to an amount of government assistance, of non-government assistance, of a benefit or of an advantage received by a person or partnership that is repaid, the taxpayer is deemed, despite the provision and for the purpose of computing the payments that the taxpayer is required to make during the year under section 1025 or 1026, subparagraph *a* of the first paragraph of section 1027 or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, to have paid to the Minister, on account of the aggregate of the taxpayer’s tax payable for the year under this Part and of the taxpayer’s tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the aggregate of all amounts each of which is an amount that the taxpayer is deemed, under such a provision, to have paid to the Minister on the taxpayer’s balance-due day for the year, in relation to an amount so repaid, exceeds the portion of that aggregate that may reasonably be considered to be deemed to have been paid to the Minister under this section in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under this section, to have been paid to the Minister on that date, for the purpose of computing that payment.”

(2) Subsection 1 applies to a taxation year that ends after 11 July 2002. However, when section 1029.6.0.1.9 of the Act applies before 12 March 2003, the portion of that section before paragraph *a* is to be read as if “, except a provision of Division II.6.5.3 or II.6.5.4” was struck out.

**94.** (1) Section 1029.7 of the Act, amended by section 217 of chapter 1 of the statutes of 2005, is again amended by replacing the portion before subparagraph *a* of the first paragraph by the following:

**“1029.7.** A taxpayer, other than a tax-exempt taxpayer, who carries on a business in Québec, has an establishment in Québec and undertakes scientific research and experimental development in Québec or causes scientific research and experimental development to be undertaken in Québec on the taxpayer’s behalf as part of a contract, and who encloses the prescribed form containing the prescribed information with the fiscal return the taxpayer is required to file under section 1000, or would be required to file if tax were payable under this Part by the taxpayer, for the taxation year in which the research and development was undertaken is deemed, subject to the second paragraph and to the first paragraph of section 1029.8.21.3.2, to have paid to the Minister, on the taxpayer’s balance-due day for that year, on account of the taxpayer’s tax payable for that year under this Part, an amount equal to 17.5% of the aggregate of”.

(2) Subsection 1 applies in respect of an expenditure incurred by a taxpayer after 21 April 2005 in a fiscal period of the taxpayer that begins after that date for scientific research and experimental development undertaken after that date and, where applicable, under a contract entered into after 20 April 2005.

**95.** (1) Section 1029.7.2 of the Act is amended by replacing the formula in the first paragraph by the following formula:

“37.5% – {[ (A – \$25,000,000) × 20% ] / \$25,000,000}.”

(2) Subsection 1 applies in respect of an expenditure incurred after 21 April 2005 for scientific research and experimental development undertaken after that date.

**96.** (1) Section 1029.8 of the Act, amended by section 219 of chapter 1 of the statutes of 2005, is again amended by replacing the portion before subparagraph *a* of the first paragraph by the following:

**“1029.8.** Where a partnership carries on a business in Québec, has an establishment in Québec and undertakes scientific research and experimental development in Québec or causes scientific research and experimental development to be undertaken in Québec on its behalf as part of a contract, every taxpayer, other than a tax-exempt taxpayer, who is a member of the partnership at the end of a fiscal period of the partnership in which the research and development was undertaken, who is not a specified member of the partnership in that fiscal period and who encloses the prescribed form containing the prescribed information with the fiscal return the taxpayer is required to file under section 1000, or would be required to file if tax were payable under this Part by the taxpayer, for the taxpayer’s taxation year in which the fiscal period ends, is deemed, subject to the second paragraph and to the second paragraph of section 1029.8.21.3.2, to have paid to the Minister, on the taxpayer’s balance-due day for that year, on account of the taxpayer’s tax payable for that year under this Part, 17.5% of the taxpayer’s share of an amount equal to the aggregate of”.

(2) Subsection 1 applies in respect of an expenditure incurred by a partnership after 21 April 2005 in a fiscal period of the partnership that begins after that date for scientific research and experimental development undertaken after that date and, where applicable, under a contract entered into after 20 April 2005.

**97.** (1) Section 1029.8.6 of the Act is amended by replacing the portion before subparagraph *a* of the first paragraph by the following:

**“1029.8.6.** A taxpayer, other than a tax-exempt taxpayer, who carries on a business in Québec, has an establishment in Québec and has entered into a university research contract with an eligible university entity or into an eligible research contract with an eligible public research centre or an eligible research consortium, or for the benefit of whom a prescribed linkage agency has entered into such a contract in accordance with an agreement entered into between the taxpayer and the prescribed linkage agency, and who encloses the prescribed form containing the prescribed information with the fiscal return the taxpayer is required to file under section 1000, or would be required to file if tax were payable under this Part by the taxpayer, for the taxation year in which scientific research and experimental development related to a business of the taxpayer was undertaken under the contract by the eligible university entity, the eligible public research centre or the eligible research consortium, as the case may be, is deemed, subject to the second paragraph and to the first paragraph of section 1029.8.21.3.2, to have paid to the Minister, on the taxpayer’s balance-due day for that year, on account of the taxpayer’s tax payable for that year under this Part, an amount equal to 35%”.

(2) Subsection 1 applies in respect of an expenditure incurred by a taxpayer after 21 April 2005 in a fiscal period of the taxpayer that begins after that date for scientific research and experimental development undertaken after that date under a contract entered into after 20 April 2005.

**98.** (1) Section 1029.8.7 of the Act is amended by replacing the portion before subparagraph *a* of the first paragraph by the following:

**“1029.8.7.** Where a partnership carries on a business in Québec, has an establishment in Québec and has entered into a university research contract with an eligible university entity or into an eligible research contract with an eligible public research centre or eligible research consortium, or where such a contract has been entered into by a prescribed linkage agency for the benefit of the partnership in accordance with an agreement entered into between the partnership and the prescribed linkage agency, each taxpayer, other than a tax-exempt taxpayer, who is a member of the partnership at the end of a fiscal period of the partnership in which scientific research and experimental development related to a business of the partnership was undertaken under the contract by the eligible university entity, the eligible public research centre or the eligible research consortium, as the case may be, who is not a specified member of the partnership in that fiscal period and who encloses the prescribed form containing the prescribed information with the fiscal return the taxpayer

is required to file under section 1000, or would be required to file if tax were payable under this Part by the taxpayer, for the taxpayer's taxation year in which the fiscal period ends, is deemed, subject to the second paragraph and to the second paragraph of section 1029.8.21.3.2, to have paid to the Minister, on the taxpayer's balance-due day for that year, on account of the taxpayer's tax payable for that year under this Part, an amount equal to 35% of the taxpayer's share".

(2) Subsection 1 applies in respect of an expenditure incurred by a partnership after 21 April 2005 in a fiscal period of the partnership that begins after that date for scientific research and experimental development undertaken after that date under a contract entered into after 20 April 2005.

**99.** Section 1029.8.9.0.2 of the Act is amended by replacing "that is" in the definitions of "eligible fee" and "eligible fee balance" in the first paragraph by "of".

**100.** (1) Section 1029.8.9.1 of the Act is amended by striking out ", a catalyst project or an environmental technology innovation project" in the following provisions:

- the portion of the definition of "overhead expenditure" before paragraph *a*;
- the definition of "wages incurred".

(2) Subsection 1 applies in respect of an expenditure incurred after 21 April 2005 by a taxpayer or partnership in a fiscal period that begins after that date for scientific research and experimental development undertaken after that date and, where applicable, under a contract entered into after 20 April 2005.

**101.** (1) Section 1029.8.9.1.1 of the Act is amended by striking out ", a catalyst project or an environmental technology innovation project".

(2) Subsection 1 applies in respect of an expenditure incurred after 21 April 2005 by a taxpayer or partnership in a fiscal period that begins after that date for scientific research and experimental development undertaken after that date and, where applicable, under a contract entered into after 20 April 2005.

**102.** (1) Section 1029.8.9.1.2 of the Act is amended by striking out ", catalyst project or environmental technology innovation project".

(2) Subsection 1 applies in respect of an expenditure incurred after 21 April 2005 by a taxpayer or partnership in a fiscal period that begins after that date for scientific research and experimental development undertaken after that date and, where applicable, under a contract entered into after 20 April 2005.



**103.** (1) Section 1029.8.10 of the Act is amended by replacing the portion before subparagraph *a* of the first paragraph by the following:

**“1029.8.10.** A taxpayer, other than a tax-exempt taxpayer within the meaning of paragraph *b.1* of section 1029.8.1, who carries on a business in Québec, has an establishment in Québec and has entered into an agreement with a person or partnership under which the parties agree to undertake scientific research and experimental development in Québec or to cause scientific research and experimental development to be undertaken in Québec on their behalf as part of a contract and in respect of which agreement the Minister of Economic Development, Innovation and Export Trade has issued a certificate recognizing that the scientific research and experimental development will be undertaken as part of a pre-competitive research project, is deemed, subject to the second paragraph and to the first paragraph of section 1029.8.21.3.2, to have paid to the Minister, on the taxpayer’s balance-due day for the taxpayer’s taxation year during which the scientific research and experimental development related to a business of the taxpayer was undertaken, on account of the taxpayer’s tax payable for that year under this Part, if the taxpayer encloses the prescribed form containing the prescribed information and a copy of the certificate issued by the Minister of Economic Development, Innovation and Export Trade with the fiscal return the taxpayer is required to file under section 1000 for that year, or would be required to file if tax were payable under this Part by the taxpayer, an amount equal to 35% of the aggregate of”.

(2) Subsection 1 applies in respect of an expenditure incurred by a taxpayer after 21 April 2005 in a fiscal period of the taxpayer that begins after that date for scientific research and experimental development undertaken after that date and, where applicable, under a contract entered into after 20 April 2005. In addition, when section 1029.8.10 of the Act applies after 17 February 2005, it reads as if “Minister of Economic and Regional Development and Research” in the portion before subparagraph *a* of the first paragraph was replaced wherever it appears by “Minister of Economic Development, Innovation and Export Trade”.

**104.** (1) Section 1029.8.11 of the Act is amended by replacing the portion before subparagraph *a* of the first paragraph by the following:

**“1029.8.11.** Where a particular partnership carries on a business in Québec, has an establishment in Québec and has entered into an agreement with a person or partnership under which the parties agree to undertake scientific research and experimental development in Québec or to cause scientific research and experimental development to be undertaken in Québec on their behalf as part of a contract, and in respect of which agreement the Minister of Economic Development, Innovation and Export Trade has issued a certificate recognizing that the scientific research and experimental development will be undertaken as part of a pre-competitive research project, each taxpayer who is a member of the particular partnership at the end of a fiscal period of the particular partnership in which the scientific research and experimental



development related to a business of the particular partnership was undertaken, who is not a tax-exempt taxpayer within the meaning of paragraph *b.1* of section 1029.8.1 or a specified member of the particular partnership in that fiscal period, is deemed, subject to the second paragraph and to the second paragraph of section 1029.8.21.3.2, to have paid to the Minister, on the taxpayer's balance-due day for that taxation year, on account of the taxpayer's tax payable for that year under this Part, if the taxpayer encloses the prescribed form containing the prescribed information and a copy of the certificate issued by the Minister of Economic Development, Innovation and Export Trade with the fiscal return the taxpayer is required to file under section 1000 for the taxpayer's taxation year in which the fiscal period ends, or would be required to file if tax were payable under this Part by the taxpayer, 35% of the taxpayer's share of an amount equal to the aggregate of".

(2) Subsection 1 applies in respect of an expenditure incurred by a partnership after 21 April 2005 in a fiscal period of the partnership that begins after that date for scientific research and experimental development undertaken after that date and, where applicable, under a contract entered into after 20 April 2005. In addition, when section 1029.8.11 of the Act applies after 17 February 2005, it reads as if "Minister of Economic and Regional Development and Research" in the portion before subparagraph *a* of the first paragraph was replaced wherever it appears by "Minister of Economic Development, Innovation and Export Trade".

**105.** (1) Section 1029.8.16 of the Act is amended

(1) by replacing "Minister of Economic and Regional Development and Research" in paragraph *a* by "Minister of Economic Development, Innovation and Export Trade";

(2) by replacing subparagraph *i* of paragraph *b* by the following subparagraph:

"i. if the certificate issued by the Minister of Economic Development, Innovation and Export Trade in respect of the agreement referred to in section 1029.8.10 or 1029.8.11 was not in force or valid at the time the expenditure was made or at the time the scientific research and experimental development was undertaken, in the case where the expenditure was made after the date of issue of the certificate, and";

(3) by inserting the following subparagraph after subparagraph *i* of paragraph *b*:

"i.1. if the expenditure was made before the date mentioned in the certificate issued by the Minister of Economic Development, Innovation and Export Trade in respect of the agreement referred to in section 1029.8.10 or 1029.8.11, in the case where the expenditure was made before the date of issue of the certificate;";

(4) by striking out subparagraph ii of paragraph *b*.

(2) Paragraphs 1 to 3 of subsection 1 have effect from 18 February 2005.

(3) Paragraph 4 of subsection 1 applies in respect of an expenditure incurred by a taxpayer after 21 April 2005 in a fiscal period of the taxpayer that begins after that date for scientific research and experimental development undertaken after that date and, where applicable, under a contract entered into after 20 April 2005.

**106.** (1) Section 1029.8.20 of the Act is amended by replacing “, pursuant to section 1029.7, 1029.8.6, 1029.8.9.0.3 or 1029.8.10, the taxpayer is, for the purposes of those sections, deemed” by “under section 1029.8.9.0.3, the taxpayer is, for the purposes of that section, deemed”.

(2) Subsection 1 applies in respect of an expenditure incurred after 21 April 2005 by a taxpayer or partnership in a fiscal period that begins after that date, for scientific research and experimental development undertaken after that date and, where applicable, under a contract entered into after 20 April 2005.

**107.** (1) The Act is amended by inserting the following section after section 1029.8.21.3.1:

**“1029.8.21.3.2.** No taxpayer may be deemed to have paid an amount to the Minister on account of the taxpayer’s tax payable for a taxation year under any of sections 1029.7, 1029.8.6 and 1029.8.10 in respect of scientific research and experimental development that the taxpayer undertakes in Québec or causes to be undertaken in Québec on the taxpayer’s behalf as part of a contract, unless it is reasonable to consider that the scientific research and experimental development relates to a business carried on by the taxpayer in an establishment situated in Québec and may lead to or facilitate an extension of that business.

No taxpayer who is a member of a partnership may be deemed to have paid an amount to the Minister on account of the taxpayer’s tax payable for a taxation year under any of sections 1029.8, 1029.8.7 and 1029.8.11 in respect of scientific research and experimental development that the partnership undertakes in Québec or causes to be undertaken in Québec on its behalf as part of a contract, unless it is reasonable to consider that the scientific research and experimental development relates to a business carried on by the partnership in an establishment situated in Québec and may lead to or facilitate an extension of that business.”

(2) Subsection 1 applies in respect of an expenditure incurred after 21 April 2005 by a taxpayer or partnership in a fiscal period that begins after that date for scientific research and experimental development undertaken after that date and, where applicable, under a contract entered into after 20 April 2005.

**108.** (1) Section 1029.8.33.2 of the Act, amended by section 229 of chapter 1 of the statutes of 2005, is again amended, in the first paragraph,

(1) by striking out subparagraph *i* of paragraph *b* of the definition of “eligible region”;

(2) by adding the following paragraph after paragraph *b* of the definition of “eligible region”:

“(c) the urban agglomeration of La Tuque, as described in section 8 of the Act respecting the exercise of certain municipal powers in certain urban agglomerations (chapter E-20.001);”;

(3) by replacing subparagraphs *a* and *a.1* of the definition of “eligible trainee” by the following subparagraphs:

“(a) an apprentice, within the meaning of the Act respecting manpower vocational training and qualification (chapter F-5), enrolled in the workplace apprenticeship program established under section 29.1 of that Act and administered by the Minister of Employment and Social Solidarity or, as the case may be, by the Kativik Regional Government established by the Act respecting Northern villages and the Kativik Regional Government (chapter V-6.1),

“(a.1) an individual who is enrolled in the apprenticeship scheme established under Chapter III.1 of the Act to foster the development of manpower training (chapter D-7.1) and administered by the Minister of Employment and Social Solidarity or, as the case may be, by the Kativik Regional Government established by the Act respecting Northern villages and the Kativik Regional Government,”.

(2) Paragraphs 1 and 2 of subsection 1 have effect from 26 March 2003. However, when paragraph *c* of the definition of “eligible region” in the first paragraph of section 1029.8.33.2 of the Act applies before 1 January 2006, it reads as follows:

“(c) Ville de La Tuque;”.

(3) Paragraph 3 of subsection 1 has effect from 21 April 2005.

**109.** (1) Section 1029.8.33.6 of the Act is amended by replacing “2006” in the first paragraph by “2007”.

(2) Subsection 1 has effect from 1 January 2006.

**110.** (1) Section 1029.8.33.7 of the Act is amended by replacing “2006” in the first paragraph by “2007”.

(2) Subsection 1 has effect from 1 January 2006.

**111.** (1) Section 1029.8.33.10 of the Act is amended by replacing subparagraph *a* of the first paragraph by the following subparagraph:

“(a) where the qualified training period is served by one or more eligible trainees referred to in paragraph *a* or *a.1* of the definition of “eligible trainee” in the first paragraph of section 1029.8.33.2, the Minister of Employment and Social Solidarity or, as the case may be, the Kativik Regional Government established by the Act respecting Northern villages and the Kativik Regional Government (chapter V-6.1), issues to the eligible taxpayer or qualified partnership, as the case may be, a certificate certifying that the qualified training period is within the framework of the workplace apprenticeship program or the apprenticeship scheme referred to in those paragraphs *a* and *a.1*.”.

(2) Subsection 1 has effect from 21 April 2005.

**112.** (1) Section 1029.8.34 of the Act, amended by section 230 of chapter 1 of the statutes of 2005, by section 153 of chapter 23 of the statutes of 2005 and by section 240 of chapter 38 of the statutes of 2005, is again amended

(1) by replacing subparagraphs i and ii of paragraph *b* of the definition of “expenditure for services rendered outside the Montréal area” in the first paragraph by the following subparagraphs:

“i. the amount of any government assistance and non-government assistance attributable to the portion of each of the amounts described in paragraph *a* of the definition of “labour expenditure” and in any of subparagraphs i to iv of paragraph *b* of that definition, where applicable, included in the portion of the labour expenditure of the corporation for the year, that the corporation has received, is entitled to receive or may reasonably expect to receive on or before the corporation’s filing-due date for that year, up to the portion of each of those amounts, as the case may be, and

“ii. the amount of any benefit or advantage attributable to the portion of each of the amounts described in paragraph *a* of the definition of “labour expenditure” and in any of subparagraphs i to iv of paragraph *b* of that definition, where applicable, included in the portion of the labour expenditure of the corporation for the year, that the corporation has obtained, is entitled to obtain or may reasonably expect to obtain on or before the corporation’s filing-due date for that year, whether in the form of a reimbursement, compensation or guarantee, in the form of proceeds of disposition of a property which exceed the fair market value of the property, or in any other form or manner, up to the portion of each of those amounts, as the case may be;”;

(2) by replacing subparagraphs i and ii of paragraph *b* of the definition of “computer-aided special effects and animation expenditure” in the first paragraph by the following subparagraphs:

“i. the amount of any government assistance and non-government assistance attributable to the portion of each of the amounts described in paragraph *a* of the definition of “labour expenditure” and in any of subparagraphs i to iv of paragraph *b* of that definition, where applicable, included in the portion of the labour expenditure of the corporation for the year, that the corporation has received, is entitled to receive or may reasonably expect to receive on or before the corporation’s filing-due date for that year, up to the portion of each of those amounts, as the case may be, and

“ii. the amount of any benefit or advantage attributable to the portion of each of the amounts described in paragraph *a* of the definition of “labour expenditure” and in any of subparagraphs i to iv of paragraph *b* of that definition, where applicable, included in the portion of the labour expenditure of the corporation for the year, that the corporation has obtained, is entitled to obtain or may reasonably expect to obtain on or before the corporation’s filing-due date for that year, whether in the form of a reimbursement, compensation or guarantee, in the form of proceeds of disposition of a property which exceed the fair market value of the property, or in any other form or manner, up to the portion of each of those amounts, as the case may be;”;

(3) by replacing “Aux fins” in the portion of the second paragraph before subparagraph *a* in the French text by “Pour l’application”;

(4) by replacing subparagraphs i and ii of subparagraph *e* of the second paragraph by the following subparagraphs:

“i. the amount of any government assistance and non-government assistance attributable to each of the amounts described in paragraph *a* of that definition and in any of subparagraphs i to iv of paragraph *b* of that definition, where applicable, included in that labour expenditure of the corporation for the year, that the corporation has received, is entitled to receive or may reasonably expect to receive on or before the corporation’s filing-due date for that year, up to each of those amounts, as the case may be, and

“ii. the amount of any benefit or advantage attributable to each of the amounts described in paragraph *a* of that definition and in any of subparagraphs i to iv of paragraph *b* of that definition, where applicable, included in that labour expenditure of the corporation for the year, that the corporation has obtained, is entitled to obtain or may reasonably expect to obtain on or before the corporation’s filing-due date for that year, whether in the form of a reimbursement, compensation or guarantee, in the form of proceeds of disposition of a property which exceed the fair market value of the property, or in any other form or manner, up to each of those amounts, as the case may be; and”.

(2) Paragraphs 1, 2 and 4 of subsection 1 apply to a taxation year of a corporation in relation to which

(1) the time limits provided for in subsection 2 of section 1010 of the Act had not expired on 21 April 2005;

(2) a notice of objection has been notified to the Minister of Revenue before 21 April 2005 or an appeal has been filed, before that date, against an assessment or determination; or

(3) the corporation has filed with the Minister of Revenue a waiver in the prescribed form in accordance with subparagraph ii of paragraph *b* of subsection 2 of section 1010 of the Act before 21 April 2005, if the waiver is in force on that date.

(3) If paragraph 1 of subsection 2 applies to a taxation year of a corporation, the Minister of Revenue shall, on application by the corporation on or before the day on which the time limits provided for in that paragraph 1 expire in relation to that taxation year or, if it is later, on 11 September 2006, make, under Part I of the Act and despite sections 1010 to 1011 of the Act, such determinations or redeterminations of the amount deemed to have been paid under Division II.6 of Chapter III.1 of Title III of Book IX of that Part I by the corporation and such assessments or reassessments of the interest and penalties payable by the corporation as are necessary to give effect to paragraphs 1, 2 and 4 of subsection 1. Sections 93.1.8 and 93.1.12 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, with the necessary modifications, to such determinations or assessments.

(4) However, when section 1029.8.34 of the Act applies to a taxation year of a corporation referred to in subsection 2 and in respect of a property for which an application for an advance ruling or, in the absence of such an application, an application for a certificate has been filed with the Société de développement des entreprises culturelles before 30 June 2000,

(1) paragraph *b* of the definitions of “computer-aided special effects and animation expenditure” and “expenditure for services rendered outside the Montréal area” in the first paragraph reads as if “exceeds the amount of any government assistance and non-government assistance attributable to that portion of the labour expenditure of the corporation” was replaced by “exceeds the amount of any government assistance and non-government assistance attributable to the portion of each of the amounts described in paragraph *a* of the definition of “labour expenditure” and in any of subparagraphs i to iv of paragraph *b* of that definition, where applicable, included in that labour expenditure of the corporation for the year”, and as if “, up to the portion of each of those amounts, as the case may be” was added at the end; and

(2) subparagraph *e* of the second paragraph reads as if “that expenditure, that the corporation has received” was replaced by “each of the amounts described in paragraph *a* of that definition and in any of subparagraphs i to iv of paragraph *b* of that definition, where applicable, included in that labour expenditure of the corporation for the year, that the corporation has received”,

and as if “, up to the portion of each of those amounts, as the case may be” was added at the end.

**113.** (1) Section 1029.8.36.0.0.1 of the Act, amended by section 231 of chapter 1 of the statutes of 2005, is again amended by replacing subparagraphs i and ii of subparagraph *d* of the second paragraph by the following subparagraphs:

“i. the amount of any government assistance and non-government assistance attributable to each of the amounts described in paragraph *a* or *b* of that definition, where applicable, included in that film dubbing expenditure of the corporation for the year, that the corporation has received, is entitled to receive or may reasonably expect to receive on or before the corporation’s filing-due date for the year, up to each of those amounts, as the case may be, and

“ii. the amount of any benefit or advantage attributable to each of the amounts described in paragraph *a* or *b* of that definition, where applicable, included in that film dubbing expenditure of the corporation for the year, that the corporation has obtained, is entitled to obtain or may reasonably expect to obtain on or before the corporation’s filing-due date for that year, whether in the form of a reimbursement, compensation or guarantee, in the form of proceeds of disposition of a property which exceed the fair market value of the property, or in any other form or manner, up to each of those amounts, as the case may be; and”.

(2) Subsection 1 applies to a taxation year of a corporation in relation to which

(1) the time limits provided for in subsection 2 of section 1010 of the Act had not expired on 21 April 2005;

(2) a notice of objection has been notified to the Minister of Revenue before 21 April 2005 or an appeal has been filed, before that date, against an assessment or determination; or

(3) the corporation has filed with the Minister of Revenue a waiver in the prescribed form in accordance with subparagraph ii of paragraph *b* of subsection 2 of section 1010 of the Act before 21 April 2005, if the waiver is in force on that date.

(3) If paragraph 1 of subsection 2 applies to a taxation year of a corporation, the Minister of Revenue shall, on application by the corporation on or before the day on which the time limits provided for in that paragraph 1 expire in relation to that taxation year or, if it is later, on 11 September 2006, make, under Part I of the Act and despite sections 1010 to 1011 of the Act, such determinations or redeterminations of the amount deemed to have been paid under Division II.6.0.0.1 of Chapter III.1 of Title III of Book IX of that Part I by the corporation and such assessments or reassessments of the interest and penalties payable by the corporation as are necessary to give effect to



subsection 1. Sections 93.1.8 and 93.1.12 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, with the necessary modifications, to such determinations or assessments.

(4) However, when section 1029.8.36.0.0.1 of the Act applies to a taxation year of a corporation referred to in subsection 2 and in respect of a property for which an application for a certificate has been filed with the Société de développement des entreprises culturelles before 13 December 2003, subparagraph *d* of the second paragraph reads as follows:

“(d) the amount of the film dubbing expenditure of a corporation for a taxation year in respect of the production of a property shall be reduced, where applicable, by the amount of any government assistance and non-government assistance attributable to each of the amounts described in paragraph *a* or *b* of that definition, where applicable, included in that film dubbing expenditure of the corporation for the year, that the corporation has received, is entitled to receive or may reasonably expect to receive on or before the corporation’s filing-due date for the year, up to each of those amounts, as the case may be; and”.

**114.** (1) Section 1029.8.36.0.0.4 of the Act, amended by section 232 of chapter 1 of the statutes of 2005, by section 157 of chapter 23 of the statutes of 2005 and by section 242 of chapter 38 of the statutes of 2005, is again amended

(1) by replacing subparagraphs i and ii of paragraph *b* of the definition of “computer-aided special effects and animation expenditure” in the first paragraph by the following subparagraphs:

“i. the amount of any government assistance and non-government assistance attributable to the portion of each of the amounts described in paragraph *a* of the definition of “labour expenditure” and in any of subparagraphs i to iv of paragraph *b* of that definition, where applicable, included in the portion of the labour expenditure of the corporation for the year, that the corporation has received, is entitled to receive or may reasonably expect to receive on or before the corporation’s filing-due date for that year, up to the portion of each of those amounts, as the case may be, and

“ii. the amount of any benefit or advantage attributable to the portion of each of the amounts described in paragraph *a* of the definition of “labour expenditure” and in any of subparagraphs i to iv of paragraph *b* of that definition, where applicable, included in the portion of the labour expenditure of the corporation for the year, that the corporation has obtained, is entitled to obtain or may reasonably expect to obtain on or before the corporation’s filing-due date for that year, whether in the form of a reimbursement, compensation or guarantee, in the form of proceeds of disposition of a property which exceed the fair market value of the property, or in any other form or manner, up to the portion of each of those amounts, as the case may be;”;



(2) by replacing subparagraphs i and ii of subparagraph *d* of the second paragraph by the following subparagraphs:

“i. the amount of any government assistance and non-government assistance attributable to each of the amounts described in paragraph *a* of that definition and in any of subparagraphs i to iv of paragraph *b* of that definition, where applicable, included in that labour expenditure of the corporation for the year, that the corporation has received, is entitled to receive or may reasonably expect to receive on or before the corporation’s filing-due date for that year, up to each of those amounts, as the case may be, and

“ii. the amount of any benefit or advantage attributable to each of the amounts described in paragraph *a* of that definition and in any of subparagraphs i to iv of paragraph *b* of that definition, where applicable, included in that labour expenditure of the corporation for the year, that the corporation has obtained, is entitled to obtain or may reasonably expect to obtain on or before the corporation’s filing-due date for that year, whether in the form of a reimbursement, compensation or guarantee, in the form of proceeds of disposition of a property which exceed the fair market value of the property, or in any other form or manner, up to each of those amounts, as the case may be;”.

(2) Subsection 1 applies to a taxation year of a corporation in relation to which

(1) the time limits provided for in subsection 2 of section 1010 of the Act had not expired on 21 April 2005;

(2) a notice of objection has been notified to the Minister of Revenue before 21 April 2005 or an appeal has been filed, before that date, against an assessment or determination; or

(3) the corporation has filed with the Minister of Revenue a waiver in the prescribed form in accordance with subparagraph ii of paragraph *b* of subsection 2 of section 1010 of the Act before 21 April 2005, if the waiver is in force on that date.

(3) If paragraph 1 of subsection 2 applies to a taxation year of a corporation, the Minister of Revenue shall, on application by the corporation on or before the day on which the time limits provided for in that paragraph 1 expire in relation to that taxation year or, if it is later, on 11 September 2006, make, under Part I of the Act and despite sections 1010 to 1011 of the Act, such determinations or redeterminations of the amount deemed to have been paid under Division II.6.0.0.2 of Chapter III.1 of Title III of Book IX of that Part I by the corporation and such assessments or reassessments of the interest and penalties payable by the corporation as are necessary to give effect to subsection 1. Sections 93.1.8 and 93.1.12 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, with the necessary modifications, to such determinations or assessments.

(4) However, when section 1029.8.36.0.0.4 of the Act applies to a taxation year of a corporation referred to in subsection 2 and in respect of a property for which an application for a certificate has been filed with the Société de développement des entreprises culturelles before 30 March 2001,

(1) paragraph *b* of the definition of “computer-aided special effects and animation expenditure” in the first paragraph reads as if “exceeds the amount of any government assistance and non-government assistance attributable to that portion of the labour expenditure of the corporation, that the corporation has received, is entitled to receive or may reasonably expect to receive on or before the corporation’s filing-due date for that year” was replaced by “exceeds the amount of any government assistance and non-government assistance attributable to the portion of each of the amounts described in paragraph *a* of the definition of “labour expenditure” and in any of subparagraphs i to iv of paragraph *b* of that definition, where applicable, included in the portion of the labour expenditure of the corporation for the year, that the corporation has received, is entitled to receive or may reasonably expect to receive on or before the corporation’s filing-due date for that year, up to the portion of each of those amounts, as the case may be”;

(2) subparagraph *d* of the second paragraph reads as follows:

“(d) the amount of the labour expenditure of a corporation for a taxation year in respect of a property shall be reduced, where applicable, by the amount of any government assistance and non-government assistance attributable to each of the amounts described in paragraph *a* of that definition and in any of subparagraphs i to iv of paragraph *b* of that definition, where applicable, included in that labour expenditure of the corporation for the year, that the corporation has received, is entitled to receive or may reasonably expect to receive on or before the corporation’s filing-due date for the year, up to each of those amounts, as the case may be;”.

**115.** (1) Section 1029.8.36.0.0.7 of the Act, amended by section 233 of chapter 1 of the statutes of 2005, by section 158 of chapter 23 of the statutes of 2005 and by section 244 of chapter 38 of the statutes of 2005, is again amended by replacing subparagraphs i and ii of subparagraph *c* of the second paragraph by the following subparagraphs:

“i. the amount of any government assistance and non-government assistance attributable to each of the amounts described in paragraph *a* of that definition and in any of subparagraphs i to iv of paragraph *b* of that definition, where applicable, included in that labour expenditure of the corporation for the year, that the corporation has received, is entitled to receive or may reasonably expect to receive on or before the corporation’s filing-due date for that year, up to each of those amounts, as the case may be, and

“ii. the amount of any benefit or advantage attributable to each of the amounts described in paragraph *a* of that definition and in any of subparagraphs i to iv of paragraph *b* of that definition, where applicable, included in that

labour expenditure of the corporation for the year, that the corporation has obtained, is entitled to obtain or may reasonably expect to obtain on or before the corporation's filing-due date for that year, whether in the form of a reimbursement, compensation or guarantee, in the form of proceeds of disposition of a property which exceed the fair market value of the property, or in any other form or manner, up to each of those amounts, as the case may be; and”.

(2) Subsection 1 applies to a taxation year of a corporation in relation to which

(1) the time limits provided for in subsection 2 of section 1010 of the Act had not expired on 21 April 2005;

(2) a notice of objection has been notified to the Minister of Revenue before 21 April 2005 or an appeal has been filed, before that date, against an assessment or determination; or

(3) the corporation has filed with the Minister of Revenue a waiver in the prescribed form in accordance with subparagraph ii of paragraph *b* of subsection 2 of section 1010 of the Act before 21 April 2005, if the waiver is in force on that date.

(3) If paragraph 1 of subsection 2 applies to a taxation year of a corporation, the Minister of Revenue shall, on application by the corporation on or before the day on which the time limits provided for in that paragraph 1 expire in relation to that taxation year or, if it is later, on 11 September 2006, make, under Part I of the Act and despite sections 1010 to 1011 of the Act, such determinations or redeterminations of the amount deemed to have been paid under Division II.6.0.0.3 of Chapter III.1 of Title III of Book IX of that Part I by the corporation and such assessments or reassessments of the interest and penalties payable by the corporation as are necessary to give effect to subsection 1. Sections 93.1.8 and 93.1.12 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, with the necessary modifications, to such determinations or assessments.

(4) However, when section 1029.8.36.0.0.7 of the Act applies to a taxation year of a corporation referred to in subsection 2 and in respect of a property for which an application for an advance ruling or, in the absence of such an application, an application for a certificate has been filed with the Société de développement des entreprises culturelles before 13 December 2003, subparagraph *c* of the second paragraph reads as follows:

“(c) the amount of the labour expenditure of a corporation for a taxation year in respect of a property shall be reduced, where applicable, by the amount of any government assistance and non-government assistance attributable to each of the amounts described in paragraph *a* of that definition and in any of subparagraphs i to iv of paragraph *b* of that definition, where applicable, included in that labour expenditure of the corporation for the year, that the

corporation has received, is entitled to receive or may reasonably expect to receive on or before the corporation's filing-due date for the year, up to each of those amounts, as the case may be; and".

**116.** (1) Section 1029.8.36.0.0.10 of the Act, amended by section 234 of chapter 1 of the statutes of 2005, by section 159 of chapter 23 of the statutes of 2005 and by section 245 of chapter 38 of the statutes of 2005, is again amended by replacing subparagraphs i and ii of subparagraph *d* of the second paragraph by the following subparagraphs:

"i. the amount of any government assistance and non-government assistance attributable to each of the amounts described in paragraph *a* of that definition and in any of subparagraphs i to iv of paragraph *b* of that definition, where applicable, included in that labour expenditure of the corporation for the year, that the corporation has received, is entitled to receive or may reasonably expect to receive on or before the corporation's filing-due date for the year, up to each of those amounts, as the case may be, and

"ii. the amount of any benefit or advantage attributable to each of the amounts described in paragraph *a* of that definition and in any of subparagraphs i to iv of paragraph *b* of that definition, where applicable, included in that labour expenditure of the corporation for the year, that the corporation has obtained, is entitled to obtain or may reasonably expect to obtain on or before the corporation's filing-due date for the year, whether in the form of a reimbursement, compensation or guarantee, in the form of proceeds of disposition of a property which exceed the fair market value of the property, or in any other form or manner, up to each of those amounts, as the case may be; and".

(2) Subsection 1 applies to a taxation year of a corporation in relation to which

(1) the time limits provided for in subsection 2 of section 1010 of the Act had not expired on 21 April 2005;

(2) a notice of objection has been notified to the Minister of Revenue before 21 April 2005 or an appeal has been filed, before that date, against an assessment or determination; or

(3) the corporation has filed with the Minister of Revenue a waiver in the prescribed form in accordance with subparagraph ii of paragraph *b* of subsection 2 of section 1010 of the Act before 21 April 2005, if the waiver is in force on that date.

(3) If paragraph 1 of subsection 2 applies to a taxation year of a corporation, the Minister of Revenue shall, on application by the corporation on or before the day on which the time limits provided for in that paragraph 1 expire in relation to that taxation year or, if it is later, on 11 September 2006, make, under Part I of the Act and despite sections 1010 to 1011 of the Act, such

determinations or redeterminations of the amount deemed to have been paid under Division II.6.0.0.4 of Chapter III.1 of Title III of Book IX of that Part I by the corporation and such assessments or reassessments of the interest and penalties payable by the corporation as are necessary to give effect to subsection 1. Sections 93.1.8 and 93.1.12 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, with the necessary modifications, to such determinations or assessments.

(4) However, when section 1029.8.36.0.0.10 of the Act applies to a taxation year of a corporation referred to in subsection 2 and in respect of a property for which an application for an advance ruling or, in the absence of such an application, an application for a certificate has been filed with the Société de développement des entreprises culturelles before 13 December 2003, subparagraph *d* of the second paragraph reads as follows:

“(d) the amount of the labour expenditure of a corporation for a taxation year in respect of a property shall be reduced, where applicable, by the amount of any government assistance and non-government assistance attributable to each of the amounts described in paragraph *a* of that definition and in any of subparagraphs i to iv of paragraph *b* of that definition, where applicable, included in that labour expenditure of the corporation for the year, that the corporation has received, is entitled to receive or may reasonably expect to receive on or before the corporation’s filing-due date for the year, up to each of those amounts, as the case may be; and”.

**117.** (1) Section 1029.8.36.0.0.13 of the Act, amended by section 160 of chapter 23 of the statutes of 2005 and by section 246 of chapter 38 of the statutes of 2005, is again amended

(1) by replacing “fourth” in subparagraph 1 of subparagraph ii of paragraph *a* of the definition of “qualified labour expenditure attributable to preparation costs” in the first paragraph by “fifth”;

(2) by replacing subparagraphs *c* and *d* of the third paragraph by the following subparagraphs:

“(c) the amount of the labour expenditure attributable to printing costs of a corporation for a taxation year in respect of a property shall be reduced, where applicable, by the amount of any government assistance and non-government assistance attributable to each of the amounts described in paragraph *a* of that definition and in any of subparagraphs i to iv of paragraph *b* of that definition and to the portion of the amount described in paragraph *c* of that definition, where applicable, included in that labour expenditure attributable to printing costs of the corporation for the year, that the corporation has received, is entitled to receive or may reasonably expect to receive on or before the corporation’s filing-due date for the year, up to each of those amounts or the portion of that amount, as the case may be;

“(d) the amount of the labour expenditure attributable to printing costs of a corporation for a taxation year in respect of a property shall be reduced, where applicable, by the amount of any benefit or advantage attributable to each of the amounts described in paragraph *a* of that definition and in any of subparagraphs i to iv of paragraph *b* of that definition and to the portion of the amount described in paragraph *c* of that definition, where applicable, included in that labour expenditure attributable to printing costs of the corporation for the year, that the corporation has obtained, is entitled to obtain or may reasonably expect to obtain on or before the corporation’s filing-due date for the year, whether in the form of a reimbursement, compensation or guarantee, in the form of proceeds of disposition of a property which exceed the fair market value of the property, or in any other form or manner, up to each of those amounts or the portion of that amount, as the case may be; and”;

(3) by replacing subparagraphs *c* and *d* of the fifth paragraph by the following subparagraphs:

“(c) the amount of the labour expenditure attributable to preparation costs of a corporation for a taxation year in respect of a property shall be reduced, where applicable, by the amount of any government assistance and non-government assistance attributable to each of the amounts described in paragraph *a* or *b* of that definition and in any of subparagraphs i to iv of paragraph *c* of that definition and to the portion of the amount described in paragraph *d* of that definition, where applicable, included in that labour expenditure attributable to preparation costs of the corporation for the year, that the corporation has received, is entitled to receive or may reasonably expect to receive on or before the corporation’s filing-due date for the year, up to each of those amounts or the portion of that amount, as the case may be;

“(d) the amount of the labour expenditure attributable to preparation costs of a corporation for a taxation year in respect of a property shall be reduced, where applicable, by the amount of any benefit or advantage attributable to each of the amounts described in paragraph *a* or *b* of that definition and in any of subparagraphs i to iv of paragraph *c* of that definition and to the portion of the amount described in paragraph *d* of that definition, where applicable, included in that labour expenditure attributable to preparation costs of the corporation for the year, that the corporation has obtained, is entitled to obtain or may reasonably expect to obtain on or before the corporation’s filing-due date for the year, whether in the form of a reimbursement, compensation or guarantee, in the form of proceeds of disposition of a property which exceed the fair market value of the property, or in any other form or manner, up to each of those amounts or the portion of that amount, as the case may be; and”;

(4) by replacing the sixth paragraph by the following paragraph:

“For the purposes of this division, the printing costs directly attributable to the printing of a property that is an eligible work or an eligible group of works incurred by a corporation before the end of a taxation year are

(a) the printing costs, other than publishing fees and administration costs, incurred by the corporation for the first printing of the eligible work or of works that are part of the eligible group of works, the first assembly and the first binding; and

(b) the portion of the cost of acquisition of a particular property, owned by the corporation and used by it as part of the printing of the property, that is the portion of the depreciation of that particular property, for the year, determined in accordance with the generally accepted accounting principles, relating to the use of that particular property by the corporation in the year, as part of the printing of the property.”;

(5) by inserting “by a corporation” after “incurred” in the portion of the seventh paragraph before subparagraph *a*;

(6) by adding the following subparagraph after subparagraph *b* of the seventh paragraph:

“(c) the portion of the cost of acquisition of a particular property, owned by the corporation and used by it as part of the preparation of the property, that is the portion of the depreciation of that particular property, for the year, determined in accordance with the generally accepted accounting principles, relating to the use of that particular property by the corporation in the year, as part of the preparation of the property.”

(2) Paragraphs 1 and 4 to 6 of subsection 1 apply in respect of a property for which an application for an advance ruling or, in the absence of such an application, an application for a certificate is filed with the Société de développement des entreprises culturelles after 30 April 2003. However, when section 1029.8.36.0.0.13 of the Act applies to a taxation year for which a corporation has first filed the prescribed form containing the prescribed information provided for in the first paragraph of section 1029.8.36.0.0.14 of the Act with the Minister of Revenue before 11 December 2003, the portion of the sixth paragraph before subparagraph *b* reads as follows:

“For the purposes of this division, the printing costs directly attributable to the printing of a property that is an eligible work or a work that is part of an eligible group of works incurred by a corporation before the end of a taxation year are

(a) the printing costs, other than publishing fees and administration costs, incurred by the corporation for the first printing of the property, its first assembly and its first binding; and”.

(3) Paragraphs 2 and 3 of subsection 1 apply to a taxation year of a corporation in relation to which

(1) the time limits provided for in subsection 2 of section 1010 of the Act had not expired on 21 April 2005;



(2) a notice of objection has been notified to the Minister of Revenue before 21 April 2005 or an appeal has been filed, before that date, against an assessment or determination; or

(3) the corporation has filed with the Minister of Revenue a waiver in the prescribed form in accordance with subparagraph ii of paragraph *b* of subsection 2 of section 1010 of the Act before 21 April 2005, if the waiver is in force on that date.

(4) If paragraph 1 of subsection 3 applies to a taxation year of a corporation, the Minister of Revenue shall, on application by the corporation on or before the day on which the time limits provided for in that paragraph 1 expire in relation to that taxation year or, if it is later, on 11 September 2006, make, under Part I of the Act and despite sections 1010 to 1011 of the Act, such determinations or redeterminations of the amount deemed to have been paid under Division II.6.0.0.5 of Chapter III.1 of Title III of Book IX of that Part I by the corporation and such assessments or reassessments of the interest and penalties payable by the corporation as are necessary to give effect to paragraphs 2 and 3 of subsection 1. Sections 93.1.8 and 93.1.12 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, with the necessary modifications, to such determinations or assessments.

**118.** (1) Section 1029.8.36.0.3.8 of the Act, amended by section 236 of chapter 1 of the statutes of 2005 and by section 247 of chapter 38 of the statutes of 2005, is again amended

(1) by replacing the portion of the definition of “labour expenditure” in the first paragraph before paragraph *a* by the following:

““qualified labour expenditure” of a corporation for a taxation year in respect of a property that is a multimedia title means, subject to the second paragraph, the aggregate of the following amounts, to the extent that they are reasonable in the circumstances:”;

(2) by striking out the definition of “qualified labour expenditure” in the first paragraph;

(3) by replacing “labour expenditure” in the definition of “eligible production work” in the first paragraph by “qualified labour expenditure”;

(4) by replacing “labour expenditure” in the portion of the second paragraph before subparagraph *a* by “qualified labour expenditure”.

(2) Paragraphs 1, 2 and 4 of subsection 1 apply to a taxation year of a corporation in relation to which

(1) the time limits provided for in subsection 2 of section 1010 of the Act had not expired on 21 April 2005;



(2) a notice of objection has been notified to the Minister of Revenue before 21 April 2005 or an appeal has been filed, before that date, against an assessment or determination; or

(3) the corporation has filed with the Minister of Revenue a waiver in the prescribed form in accordance with subparagraph ii of paragraph *b* of subsection 2 of section 1010 of the Act before 21 April 2005, if the waiver is in force on that date.

(3) If paragraph 1 of subsection 2 applies to a taxation year of a corporation, the Minister of Revenue shall, on application by the corporation on or before the day on which the time limits provided for in that paragraph 1 expire in relation to that taxation year or, if it is later, on 11 September 2006, make, under Part I of the Act and despite sections 1010 to 1011 of the Act, such determinations or redeterminations of the amount deemed to have been paid under Division II.6.0.1.2 of Chapter III.1 of Title III of Book IX of that Part I by the corporation and such assessments or reassessments of the interest and penalties payable by the corporation as are necessary to give effect to subsection 1. Sections 93.1.8 and 93.1.12 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, with the necessary modifications, to such determinations or assessments.

(4) Paragraph 3 of subsection 1 applies in respect of a property for which an advance ruling has been given or, in the absence of such a ruling, a certificate has been issued after 30 March 2004.

**119.** (1) The Act is amended by inserting the following section after section 1029.8.36.0.3.10:

**“1029.8.36.0.3.10.1.** For the purpose of computing the amount that a qualified corporation is deemed to have paid to the Minister for a taxation year under section 1029.8.36.0.3.9, the amount of the salaries or wages incurred or of a portion of the consideration paid, included in the qualified labour expenditure of the corporation for the year, is to be reduced, where applicable, by the amount of any government assistance or non-government assistance attributable to the salaries or wages or to the portion of the consideration, as the case may be, that the corporation has received, is entitled to receive or may reasonably expect to receive on or before the corporation’s filing-due date for the year.”

(2) Subsection 1 applies to a taxation year of a corporation in relation to which

(1) the time limits provided for in subsection 2 of section 1010 of the Act had not expired on 21 April 2005;

(2) a notice of objection has been notified to the Minister of Revenue before 21 April 2005 or an appeal has been filed, before that date, against an assessment or determination; or

(3) the corporation has filed with the Minister of Revenue a waiver in the prescribed form in accordance with subparagraph ii of paragraph *b* of subsection 2 of section 1010 of the Act before 21 April 2005, if the waiver is in force on that date.

(3) If paragraph 1 of subsection 2 applies to a taxation year of a corporation, the Minister of Revenue shall, on application by the corporation on or before the day on which the time limits provided for in that paragraph 1 expire in relation to that taxation year or, if it is later, on 11 September 2006, make, under Part I of the Act and despite sections 1010 to 1011 of the Act, such determinations or redeterminations of the amount deemed to have been paid under Division II.6.0.1.2 of Chapter III.1 of Title III of Book IX of that Part I by the corporation and such assessments or reassessments of the interest and penalties payable by the corporation as are necessary to give effect to subsection 1. Sections 93.1.8 and 93.1.12 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, with the necessary modifications, to such determinations or assessments.

**120.** (1) Section 1029.8.36.0.3.11 of the Act is amended by replacing “determined under paragraph *b* of the definition of “qualified labour expenditure” in the first paragraph of section 1029.8.36.0.3.8” in the portion before paragraph *a* by “of any government assistance or non-government assistance referred to in section 1029.8.36.0.3.10.1”.

(2) Subsection 1 applies to a taxation year of a corporation in relation to which

(1) the time limits provided for in subsection 2 of section 1010 of the Act had not expired on 21 April 2005;

(2) a notice of objection has been notified to the Minister of Revenue before 21 April 2005 or an appeal has been filed, before that date, against an assessment or determination; or

(3) the corporation has filed with the Minister of Revenue a waiver in the prescribed form in accordance with subparagraph ii of paragraph *b* of subsection 2 of section 1010 of the Act before 21 April 2005, if the waiver is in force on that date.

(3) If paragraph 1 of subsection 2 applies to a taxation year of a corporation, the Minister of Revenue shall, on application by the corporation on or before the day on which the time limits provided for in that paragraph 1 expire in relation to that taxation year or, if it is later, on 11 September 2006, make, under Part I of the Act and despite sections 1010 to 1011 of the Act, such determinations or redeterminations of the amount deemed to have been paid under Division II.6.0.1.2 of Chapter III.1 of Title III of Book IX of that Part I by the corporation and such assessments or reassessments of the interest and penalties payable by the corporation as are necessary to give effect to subsection 1. Sections 93.1.8 and 93.1.12 of the Act respecting the Ministère

du Revenu (R.S.Q., chapter M-31) apply, with the necessary modifications, to such determinations or assessments.

**121.** (1) Section 1029.8.36.0.3.12 of the Act is amended by replacing paragraph *a* by the following paragraph:

“(a) reduced, because of section 1029.8.36.0.3.10.1, a qualified labour expenditure of the qualified corporation for the purpose of computing the amount it is deemed to have paid to the Minister for a taxation year under section 1029.8.36.0.3.9;”.

(2) Subsection 1 applies to a taxation year of a corporation in relation to which

(1) the time limits provided for in subsection 2 of section 1010 of the Act had not expired on 21 April 2005;

(2) a notice of objection has been notified to the Minister of Revenue before 21 April 2005 or an appeal has been filed, before that date, against an assessment or determination; or

(3) the corporation has filed with the Minister of Revenue a waiver in the prescribed form in accordance with subparagraph ii of paragraph *b* of subsection 2 of section 1010 of the Act before 21 April 2005, if the waiver is in force on that date.

(3) If paragraph 1 of subsection 2 applies to a taxation year of a corporation, the Minister of Revenue shall, on application by the corporation on or before the day on which the time limits provided for in that paragraph 1 expire in relation to that taxation year or, if it is later, on 11 September 2006, make, under Part I of the Act and despite sections 1010 to 1011 of the Act, such determinations or redeterminations of the amount deemed to have been paid under Division II.6.0.1.2 of Chapter III.1 of Title III of Book IX of that Part I by the corporation and such assessments or reassessments of the interest and penalties payable by the corporation as are necessary to give effect to subsection 1. Sections 93.1.8 and 93.1.12 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, with the necessary modifications, to such determinations or assessments.

**122.** (1) Section 1029.8.36.0.3.13 of the Act is replaced by the following section:

**“1029.8.36.0.3.13.** If, in respect of a contract entered into in connection with the carrying out of eligible production work in relation to a property that is a multimedia title, a person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain a benefit or advantage, other than a benefit or advantage that may reasonably be attributed to the carrying out of the eligible production work, whether in the form of a reimbursement, compensation or guarantee, in the form of proceeds of

disposition of a property which exceed the fair market value of the property, or in any other form or manner, or a person or partnership is deemed to have obtained or to be entitled to obtain such a benefit or advantage upon a determination of the Minister to that effect, the amount of the portion of a consideration paid, included in the qualified labour expenditure of a corporation, for a taxation year, in respect of the property shall be reduced, where applicable, by the amount of the benefit or advantage attributable to that portion of a consideration that the person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain, or is deemed to have obtained or to be entitled to obtain, on or before the corporation's filing-due date for that taxation year."

(2) Subsection 1 applies to a taxation year of a corporation in relation to which

(1) the time limits provided for in subsection 2 of section 1010 of the Act had not expired on 21 April 2005;

(2) a notice of objection has been notified to the Minister of Revenue before 21 April 2005 or an appeal has been filed, before that date, against an assessment or determination; or

(3) the corporation has filed with the Minister of Revenue a waiver in the prescribed form in accordance with subparagraph ii of paragraph *b* of subsection 2 of section 1010 of the Act before 21 April 2005, if the waiver is in force on that date.

(3) If paragraph 1 of subsection 2 applies to a taxation year of a corporation, the Minister of Revenue shall, on application by the corporation on or before the day on which the time limits provided for in that paragraph 1 expire in relation to that taxation year or, if it is later, on 11 September 2006, make, under Part I of the Act and despite sections 1010 to 1011 of the Act, such determinations or redeterminations of the amount deemed to have been paid under Division II.6.0.1.2 of Chapter III.1 of Title III of Book IX of that Part I by the corporation and such assessments or reassessments of the interest and penalties payable by the corporation as are necessary to give effect to subsection 1. Sections 93.1.8 and 93.1.12 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, with the necessary modifications, to such determinations or assessments.

**123.** (1) Section 1029.8.36.0.3.15 of the Act is amended by inserting "admissible" after "dépense de main-d'œuvre" in the French text.

(2) Subsection 1 applies to a taxation year of a corporation in relation to which

(1) the time limits provided for in subsection 2 of section 1010 of the Act had not expired on 21 April 2005;

(2) a notice of objection has been notified to the Minister of Revenue before 21 April 2005 or an appeal has been filed, before that date, against an assessment or determination; or

(3) the corporation has filed with the Minister of Revenue a waiver in the prescribed form in accordance with subparagraph ii of paragraph *b* of subsection 2 of section 1010 of the Act before 21 April 2005, if the waiver is in force on that date.

(3) If paragraph 1 of subsection 2 applies to a taxation year of a corporation, the Minister of Revenue shall, on application by the corporation on or before the day on which the time limits provided for in that paragraph 1 expire in relation to that taxation year or, if it is later, on 11 September 2006, make, under Part I of the Act and despite sections 1010 to 1011 of the Act, such determinations or redeterminations of the amount deemed to have been paid under Division II.6.0.1.2 of Chapter III.1 of Title III of Book IX of that Part I by the corporation and such assessments or reassessments of the interest and penalties payable by the corporation as are necessary to give effect to subsection 1. Sections 93.1.8 and 93.1.12 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, with the necessary modifications, to such determinations or assessments.

**124.** (1) Section 1029.8.36.0.3.24 of the Act is replaced by the following section:

**“1029.8.36.0.3.24.** If, in respect of a contract entered into in connection with the carrying out of eligible production work relating to eligible multimedia titles, a person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain a benefit or advantage, other than a benefit or advantage that may reasonably be attributed to the carrying out of the eligible production work, whether in the form of a reimbursement, compensation or guarantee, in the form of proceeds of disposition of a property which exceed the fair market value of the property, or in any other form or manner, or a person or partnership is deemed to have obtained or to be entitled to obtain such a benefit or advantage upon a determination by the Minister to that effect, the amount of the portion of a consideration paid, included in the qualified labour expenditure of a qualified corporation, for a taxation year, shall be reduced, where applicable, by the amount of the benefit or advantage attributable to that portion of a consideration that the person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain, or is deemed to have obtained or to be entitled to obtain, on or before the qualified corporation’s filing-due date for that taxation year.”

(2) Subsection 1 applies to a taxation year of a corporation in relation to which

(1) the time limits provided for in subsection 2 of section 1010 of the Act had not expired on 21 April 2005;

(2) a notice of objection has been notified to the Minister of Revenue before 21 April 2005 or an appeal has been filed, before that date, against an assessment or determination; or

(3) the corporation has filed with the Minister of Revenue a waiver in the prescribed form in accordance with subparagraph ii of paragraph *b* of subsection 2 of section 1010 of the Act before 21 April 2005, if the waiver is in force on that date.

(3) If paragraph 1 of subsection 2 applies to a taxation year of a corporation, the Minister of Revenue shall, on application by the corporation on or before the day on which the time limits provided for in that paragraph 1 expire in relation to that taxation year or, if it is later, on 11 September 2006, make, under Part I of the Act and despite sections 1010 to 1011 of the Act, such determinations or redeterminations of the amount deemed to have been paid under Division II.6.0.1.3 of Chapter III.1 of Title III of Book IX of that Part I by the corporation and such assessments or reassessments of the interest and penalties payable by the corporation as are necessary to give effect to subsection 1. Sections 93.1.8 and 93.1.12 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, with the necessary modifications, to such determinations or assessments.

**125.** (1) Section 1029.8.36.0.3.46 of the Act, amended by section 238 of chapter 1 of the statutes of 2005, is again amended, in paragraph *c* of the definition of “qualified corporation” in the first paragraph,

(1) by replacing “after 11 June 2003 and before 1 July 2004, where Investissement Québec” in subparagraph i by “before 1 July 2004 and Investissement Québec”;

(2) by replacing subparagraph ii by the following subparagraph:

“ii. is by a qualified corporation, by a person or group of persons that controls a qualified corporation, or by a group of persons each member of which is a qualified corporation or a person who, alone or together with other members of the group, controls such a corporation,”;

(3) by adding the following subparagraph after subparagraph iii:

“iv. derives from the performance after 11 June 2003 of one or more obligations described in the third paragraph of section 21.3.5 that were contracted before 12 June 2003;”.

(2) Subsection 1 has effect from 12 June 2003.

**126.** (1) Section 1029.8.36.0.3.60 of the Act, amended by section 164 of chapter 23 of the statutes of 2005, is again amended, in paragraph *c* of the definition of “qualified corporation” in the first paragraph,

(1) by replacing the portion before subparagraph iii by the following:

“(c) a corporation control of which is acquired at any time in the calendar year or a preceding calendar year, but after 11 June 2003, by a person or group of persons, unless the acquisition of control

i. occurs before 1 July 2004 and Investissement Québec certifies that it results from a transaction that was sufficiently advanced on 11 June 2003 and was binding on the parties on that date,

ii. is by a corporation carrying on at that time a recognized business, by a person or group of persons that controls such a corporation, or by a group of persons each member of which is such a corporation or a person who, alone or together with other members of the group, controls such a corporation,”;

(2) by adding the following subparagraph after subparagraph iii:

“iv. derives from the performance after 11 June 2003 of one or more obligations described in the third paragraph of section 21.3.5 that were contracted before 12 June 2003;”.

(2) Subsection 1 has effect from 12 June 2003.

**127.** The heading of subdivision 3 of Division II.6.0.1.7 of Chapter III.1 of Title III of Book IX of Part I of the Act is replaced by the following heading:

“§3. — *Government assistance, non-government assistance, contract payments and other particulars*”.

**128.** (1) Section 1029.8.36.0.3.65 of the Act is amended, in the first paragraph,

(1) by replacing subparagraph i of subparagraph *a* by the following subparagraph:

“i. by the amount of any contract payment, government assistance or non-government assistance attributable to the salaries or wages that the qualified corporation or the corporation associated with it, as the case may be, has received, is entitled to receive or may reasonably expect to receive, on or before its filing-due date for its taxation year, except any amount of government assistance that is an amount that the qualified corporation or the corporation associated with it, as the case may be, is deemed to have paid to the Minister under this chapter for any taxation year;”;

(2) by inserting “, other than those referred to in subparagraph ii,” after “salaries or wages” in subparagraph iii of subparagraph *a*;

(3) by replacing subparagraph i of subparagraph *b* by the following subparagraph:

“i. by the amount of any contract payment, government assistance or non-government assistance attributable to the salaries or wages that the particular qualified corporation has received, is entitled to receive or may reasonably expect to receive, on or before its filing-due date for its taxation year, except any amount of government assistance that is an amount that the particular qualified corporation is deemed to have paid to the Minister under this chapter for any taxation year,”;

(4) by inserting “, other than those referred to in subparagraph ii,” after “salaries or wages” in subparagraph iii of subparagraph *b*.

(2) Subsection 1 has effect from 1 January 2004.

**129.** (1) The Act is amended by inserting the following after section 1029.8.36.0.3.71:

**“DIVISION II.6.0.1.8**

**“CREDIT FOR MAJOR EMPLOYMENT-GENERATING PROJECTS**

**“§1. — *Interpretation and general***

**“1029.8.36.0.3.72.** In this division,

“eligible contract” of a corporation means a contract entered into by the corporation and in respect of which a qualification certificate is issued to the corporation by Investissement Québec, for the purposes of this division, certifying that the contract is an eligible contract;

“eligible employee” of a corporation for all or part of a taxation year, in relation to an eligible contract, means an employee of the corporation, other than an excluded employee at any time in that year, who reports for work at an establishment of the corporation situated in Québec and in respect of whom a qualification certificate is issued to the corporation for the year by Investissement Québec, for the purposes of this division, certifying that the employee is an eligible employee of the corporation for all or part of the year, in relation to the eligible contract;

“excluded employee” of a corporation at a particular time means an employee who, at that time, is a specified shareholder of the corporation or, if the corporation is a cooperative, a specified member of that corporation;

“qualified corporation” for a taxation year means a corporation that, in the year, has an establishment in Québec and carries on an eligible business in Québec, other than a corporation

(a) that is exempt from tax for the year under Book VIII; or



(b) that would be exempt from tax for the year under section 985, but for section 192;

“qualified wages” incurred by a qualified corporation in a taxation year in respect of an eligible employee for all or part of the taxation year means the lesser of

(a) the amount obtained by multiplying \$60,000 by the proportion that the number of days in the corporation’s taxation year during which the employee qualifies as an eligible employee of the corporation is of 365; and

(b) the amount by which the amount of the wages incurred by the qualified corporation in respect of the employee in the year, while the employee qualified as an eligible employee of the qualified corporation, to the extent that that amount is paid, exceeds the aggregate of

i. the aggregate of all amounts each of which is an amount of government assistance or non-government assistance attributable to such wages, that the qualified corporation has received, is entitled to receive or may reasonably expect to receive, on or before the qualified corporation’s filing-due date for that taxation year, and

ii. the aggregate of all amounts each of which is the amount of a benefit or advantage in respect of such wages, other than a benefit or advantage that may reasonably be attributed to the work carried out by the eligible employee under an eligible contract of the qualified corporation for the taxation year, that a person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain, on or before the qualified corporation’s filing-due date for that taxation year, whether in the form of a reimbursement, compensation or guarantee, in the form of proceeds of disposition of a property which exceed the fair market value of the property, or in any other form or manner;

“specified member” of a corporation that is a cooperative, in a taxation year, means a member having, directly or indirectly, at any time in the year, at least 10% of the votes at a meeting of the members of the cooperative;

“wages” means the income computed under Chapters I and II of Title II of Book III.

For the purposes of the definition of “eligible employee” in the first paragraph,

(a) if, during all or part of a taxation year, an employee reports for work at an establishment of a qualified corporation situated in Québec and at an establishment of the qualified corporation situated outside Québec, the employee is, for that period, deemed

i. unless subparagraph ii applies, to report for work only at the establishment situated in Québec, or

ii. to report for work only at the establishment situated outside Québec if, during that period, the employee reports for work mainly at an establishment of the qualified corporation situated outside Québec; and

(b) if, during all or part of a taxation year, an employee is not required to report for work at an establishment of a qualified corporation and the employee's salary or wages in relation to that period are paid from such an establishment situated in Québec, the employee is deemed to report for work at that establishment if the duties performed by the employee during that period are performed mainly in Québec.

“§2. — *Credit*

**“1029.8.36.0.3.73.** A qualified corporation that, for a taxation year, holds a valid qualification certificate issued by Investissement Québec, for the purposes of this division, certifying that it qualifies as a qualified corporation, and that encloses the documents referred to in the fifth paragraph with the fiscal return it is required to file for the year under section 1000, is deemed, subject to the fourth paragraph, to have paid to the Minister on the qualified corporation's balance-due day for that year, on account of its tax payable for that year under this Part, an amount equal to 25% of the aggregate of all amounts each of which is the qualified wages incurred by the qualified corporation after 31 December 2004 and in the year, but before 1 January 2017, in respect of an eligible employee, for all or part of that year, in relation to an eligible contract.

Despite the first paragraph and subject to the third paragraph, no corporation may be deemed to have paid an amount to the Minister for a taxation year, for the purposes of this division, in respect of more than 2,000 eligible employees.

If the corporation referred to in the first paragraph is associated in a taxation year with at least one other corporation holding a valid qualification certificate issued by Investissement Québec, for the purposes of this division, certifying that it qualifies as a qualified corporation, the reference to “2,000” in the second paragraph is to be replaced by the number of employees attributed to the corporation, in respect of the taxation year, in accordance with the agreement described in section 1029.8.36.0.3.74.

For the purpose of computing the payments that a corporation referred to in the first paragraph is required to make under subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, the corporation is deemed to have paid to the Minister, on account of the aggregate of its tax payable for the year under this Part and of its tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion

of that amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under this division, to have been paid to the Minister on that date, for the purpose of computing that payment.

The documents to which the first paragraph refers are

(a) the prescribed form containing the prescribed information;

(b) a copy of the following documents:

i. the valid qualification certificate issued to the corporation for the year by Investissement Québec, certifying that it is a qualified corporation for the purposes of this division,

ii. any valid qualification certificate issued to the corporation, for the purposes of this division, in respect of an eligible contract, and

iii. any valid qualification certificate issued to the corporation for the year in relation to an eligible employee in respect of whom the corporation is deemed to have paid an amount for the year to the Minister under the first paragraph; and

(c) if the third paragraph applies, the agreement described in section 1029.8.36.0.3.74 filed in prescribed form.

**“1029.8.36.0.3.74.** The agreement to which the third paragraph of section 1029.8.36.0.3.73 refers in respect of a taxation year means an agreement under which all of the corporations that hold a valid qualification certificate issued by Investissement Québec, for the purposes of this division, certifying that they qualify as qualified corporations, and that are associated with each other in the year, hereinafter called the “group of associated corporations”, attribute to each corporation, for the purposes of that third paragraph, a maximum number of eligible employees in respect of whom a qualified corporation is deemed to have paid an amount to the Minister for the purposes of this division; the total of the numbers so attributed to corporations that are members of the group of associated corporations for the taxation year is not to exceed 2,000.

If the total of the numbers attributed in the agreement described in the first paragraph, in respect of a taxation year, exceeds 2,000, the maximum number of eligible employees attributed to each corporation that is a member of the group of associated corporations for the year is deemed, for the purposes of the first paragraph, to be equal to the proportion of 2,000 that the number

attributed for the year in the agreement to that corporation is of the total of the numbers attributed for the year in the agreement.

**“1029.8.36.0.3.75.** Subject to sections 1010 to 1011 and for the purposes of this division, if Investissement Québec replaces or revokes a certificate issued to a corporation for a taxation year, the following rules apply:

(a) a replaced certificate is null from the time it was issued or deemed issued and the new certificate is deemed to have been issued at that time for that taxation year; and

(b) a revoked certificate is null from the time the revocation becomes effective.

The revoked certificate referred to in the first paragraph is deemed not to have been issued as of the effective date specified in the notice of revocation.

*“§3. — Government assistance, non-government assistance and other particulars*

**“1029.8.36.0.3.76.** If, before 1 January 2018, a corporation pays in a taxation year, in this section referred to as the “repayment year”, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance, or a person or partnership pays in the repayment year, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of a benefit or advantage, and the government assistance, non-government assistance, benefit or advantage, as the case may be, was taken into account in computing qualified wages incurred in a particular taxation year by the corporation in respect of an eligible employee in respect of whom the corporation is deemed to have paid an amount to the Minister under section 1029.8.36.0.3.73 for the particular taxation year, the corporation is deemed, if it encloses the prescribed form with the fiscal return it is required to file for the repayment year under section 1000, to have paid to the Minister on the corporation’s balance-due day for the repayment year, on account of its tax payable for that year under this Part, an amount equal to the amount by which the amount that it would be deemed to have paid to the Minister for the particular year under section 1029.8.36.0.3.73 in respect of the qualified wages, if any amount of such assistance, benefit or advantage so repaid at or before the end of the repayment year had reduced, for the particular year, the amount determined under subparagraph i or ii of paragraph b of the definition of “qualified wages” in the first paragraph of section 1029.8.36.0.3.72, exceeds the aggregate of

(a) the amount that the corporation is deemed to have paid to the Minister for the particular year under section 1029.8.36.0.3.73 in respect of the qualified wages; and

(b) any amount that the corporation is deemed to have paid to the Minister for a taxation year preceding the repayment year under this paragraph in respect of an amount of repayment of that assistance, benefit or advantage.

**“1029.8.36.0.3.77.** For the purposes of section 1029.8.36.0.3.76, an amount of assistance, a benefit or an advantage is deemed to be repaid by a corporation in a taxation year pursuant to a legal obligation if that amount

(a) reduced, because of subparagraph i or ii of paragraph *b* of the definition of “qualified wages” in the first paragraph of section 1029.8.36.0.3.72, the amount of the wages referred to in that paragraph *b*, for the purpose of computing qualified wages in respect of which the corporation is deemed to have paid an amount to the Minister under section 1029.8.36.0.3.73;

(b) was not received by the corporation; and

(c) ceased in the taxation year to be an amount that the corporation may reasonably expect to receive.

**“1029.8.36.0.3.78.** If it may reasonably be considered that one of the main reasons for the separate existence of two or more corporations in a taxation year is to cause the maximum number of eligible employees set out in the second paragraph of section 1029.8.36.0.3.73, in respect of whom a corporation is deemed to have paid an amount to the Minister for a taxation year, not to be replaced by a smaller number in accordance with the third paragraph of section 1029.8.36.0.3.73 and section 1029.8.36.0.3.74, those corporations are deemed, for the purposes of this division, to be associated with each other at the end of the year.”

(2) Subsection 1 has effect from 1 January 2005.

**130.** (1) Section 1029.8.36.0.17 of the Act, amended by section 167 of chapter 23 of the statutes of 2005 and by section 255 of chapter 38 of the statutes of 2005, is again amended, in subparagraph iv of paragraph *b* of the definition of “specified corporation” in the first paragraph,

(1) by replacing “after 11 June 2003 and before 1 July 2004, where Investissement Québec” in subparagraph 1 by “before 1 July 2004 and Investissement Québec”;

(2) by replacing subparagraph 2 by the following subparagraph:

“(2) is by a specified corporation, by a person or group of persons that controls a specified corporation, or by a group of persons each member of which is a specified corporation or a person who, alone or together with other members of the group, controls such a corporation,”;

(3) by adding the following subparagraph after subparagraph 3:

“(4) derives from the performance after 11 June 2003 of one or more obligations described in the third paragraph of section 21.3.5 that were contracted before 12 June 2003; and”.

(2) Subsection 1 has effect from 12 June 2003.

**131.** (1) Section 1029.8.36.0.21.2 of the Act, enacted by section 168 of chapter 23 of the statutes of 2005, is amended

(1) by striking out “subject to the second paragraph,” in subparagraph *b* of the first paragraph;

(2) by replacing the second paragraph by the following paragraph:

“However, the condition set out in subparagraph *b* of the first paragraph is deemed not to be met if the acquisition of control

(a) occurs before 1 July 2004 and Investissement Québec certifies that it results from a transaction that was sufficiently advanced on 11 June 2003 and was binding on the parties on that date;

(b) is by an exempt corporation, by a person or group of persons that controls an exempt corporation, or by a group of persons each member of which is an exempt corporation or a person who, alone or together with other members of the group, controls such a corporation;

(c) derives from the exercise after 11 June 2003 of one or more rights described in paragraph *b* of section 20 that were acquired before 12 June 2003; or

(d) derives from the performance after 11 June 2003 of one or more obligations described in the third paragraph of section 21.3.5 that were contracted before 12 June 2003.”

(2) Subsection 1 has effect from 12 June 2003.

**132.** (1) Section 1029.8.36.0.22.1 of the Act, enacted by section 169 of chapter 23 of the statutes of 2005, is amended by replacing the second paragraph by the following paragraph:

“The condition set out in subparagraph *b* of the first paragraph is deemed not to be met if the acquisition of control

(a) occurs before 1 July 2005 and Investissement Québec certifies that it results from a transaction that was sufficiently advanced on 30 March 2004 and was binding on the parties on that date;

(*b*) is by an exempt corporation or a specified corporation, by a person or group of persons that controls such a corporation, or by a group of persons each member of which is such a corporation or a person who, alone or together with other members of the group, controls such a corporation;

(*c*) derives from the exercise after 30 March 2004 of one or more rights described in paragraph *b* of section 20 that were acquired before 31 March 2004; or

(*d*) derives from the performance after 30 March 2004 of one or more obligations described in the third paragraph of section 21.3.5 that were contracted before 31 March 2004.”

(2) Subsection 1 has effect from 31 March 2004.

**133.** (1) Section 1029.8.36.0.25.2 of the Act, enacted by section 175 of chapter 23 of the statutes of 2005, is amended by replacing the second paragraph by the following paragraph:

“The condition set out in subparagraph *b* of the first paragraph is deemed not to be met if the acquisition of control

(*a*) occurs before 1 July 2004 and Investissement Québec certifies that it results from a transaction that was sufficiently advanced on 11 June 2003 and was binding on the parties on that date;

(*b*) is by an exempt corporation, by a person or group of persons that controls an exempt corporation, or by a group of persons each member of which is an exempt corporation or a person who, alone or together with other members of the group, controls such a corporation;

(*c*) derives from the exercise after 11 June 2003 of one or more rights described in paragraph *b* of section 20 that were acquired before 12 June 2003; or

(*d*) derives from the performance after 11 June 2003 of one or more obligations described in the third paragraph of section 21.3.5 that were contracted before 12 June 2003.”

(2) Subsection 1 has effect from 12 June 2003.

**134.** (1) Section 1029.8.36.0.38 of the Act, amended by section 239 of chapter 1 of the statutes of 2005 and by section 177 of chapter 23 of the statutes of 2005, is again amended, in paragraph *d* of the definition of “excluded corporation” in the first paragraph,

(1) by replacing the portion before subparagraph iii by the following:

“(d) a corporation control of which is acquired at the beginning of the year or of a preceding taxation year, but after 11 June 2003, by a person or group of persons, unless the acquisition of control

i. occurs before 1 July 2004 and Investissement Québec certifies that it results from a transaction that was sufficiently advanced on 11 June 2003 and was binding on the parties on that date,

ii. is by a corporation that, at the time of the acquisition of control, is carrying on a recognized business, by a person or group of persons that controls such a corporation or by a group of persons each member of which is such a corporation or a person who, alone or together with other members of the group, controls such a corporation,”;

(2) by adding the following subparagraph after subparagraph iii:

“iv. derives from the performance after 11 June 2003 of one or more obligations described in the third paragraph of section 21.3.5 that were contracted before 12 June 2003;”.

(2) Subsection 1 has effect from 12 June 2003. However, when subparagraph i of paragraph d of the definition of “excluded corporation” in the first paragraph of section 1029.8.36.0.38 of the Act applies before 31 March 2004, it reads as if “and Investissement Québec” was replaced by “and the Minister of Finance”.

**135.** (1) Section 1029.8.36.4 of the Act, amended by section 241 of chapter 1 of the statutes of 2005, is again amended

(1) by inserting the following definition in alphabetical order in the first paragraph:

““qualified outside consultant” means a person or partnership that holds, in that capacity, a certificate of qualification issued by the Minister of Economic Development, Innovation and Export Trade for the purposes of this division;”;

(2) by striking out the definition of “outside consulting contract” in the first paragraph;

(3) by replacing the definition of “particular designer” in the first paragraph by the following definition:

““qualified designer” means an individual who holds, in that capacity, a certificate of qualification issued by the Minister of Economic Development, Innovation and Export Trade for the purposes of this division;”;

(4) by striking out the definition of “specified member” in the first paragraph;

(5) by replacing “design consultant” in the definition of “apparent payment” in the first paragraph by “qualified outside consultant”;



(6) by replacing the definition of “contract payment” in the first paragraph by the following definition:

““contract payment” means an amount payable under a contract by the Government of Canada or of a province, by a municipality or other Canadian public authority or by a person exempt from tax under this Part by reason of Book VIII, to the extent that it may reasonably be considered that the amount payable relates to a design or pattern drafting activity of a qualified corporation or qualified partnership, as the case may be, and up to the amount incurred by the qualified corporation or qualified partnership in respect of that activity;”;

(7) by inserting the following definition in alphabetical order in the first paragraph:

““qualified patternmaker” means an individual who holds, in that capacity, a certificate of qualification issued by the Minister of Economic Development, Innovation and Export Trade for the purposes of this division;”;

(8) by striking out the definition of “qualified wages” in the first paragraph;

(9) by striking out the second and third paragraphs.

(2) Paragraphs 1, 3 and 5 to 8 of subsection 1 and paragraph 9 of that subsection, when it strikes out the third paragraph of section 1029.8.36.4 of the Act, have effect from 22 April 2005.

(3) Paragraphs 2 and 4 of subsection 1 and paragraph 9 of that subsection, when it strikes out the second paragraph of section 1029.8.36.4 of the Act, apply in respect of an expenditure incurred after 21 April 2005 for work that relates to a design activity or pattern drafting activity and that is carried out after that date, under a contract entered into with a qualified outside consultant after that date.

**136.** (1) Section 1029.8.36.5 of the Act is amended

(1) by replacing the first paragraph by the following paragraph:

**“1029.8.36.5.** A qualified corporation in respect of which the Minister of Economic Development, Innovation and Export Trade issues a certificate for a particular taxation year, in respect of a design activity, in connection with a business it carries on in Québec, carried out under a contract entered into with a qualified outside consultant and that encloses the documents referred to in the sixth paragraph with the fiscal return it is required to file under section 1000 for the particular year, is deemed, subject to the third paragraph, to have paid to the Minister on the corporation’s balance-due day for that year, on account of its tax payable for that year under this Part, an amount equal to 15% of

(a) if the qualified corporation is not dealing at arm's length with the qualified outside consultant at the time the contract is entered into, the aggregate of all amounts each of which, determined in relation to a qualified designer or, as the case may be, to a qualified patternmaker, who reports for work at an establishment of the qualified outside consultant situated in Québec, is the expenditure that it incurs in the particular year, to the extent that the expenditure is paid and is reasonable in the circumstances, and that is the least of

i. the part of the cost of the contract that may reasonably be attributed to the wages paid by the qualified outside consultant to the qualified designer or qualified patternmaker in a taxation year of the qualified outside consultant or, if the qualified outside consultant is a partnership, in a fiscal period of the qualified outside consultant and before the end of the particular year, in relation to the part of the design activity, or to the part of the pattern drafting activity provided for in the contract, that is carried out in Québec in the particular year or in a preceding taxation year, or that could be so attributed if the qualified outside consultant had such employees,

ii. \$60,000, if the wages referred to in subparagraph i, in relation to a taxation year or fiscal period of the qualified outside consultant, are paid or, as the case may be, deemed to be paid to a qualified designer, and

iii. \$40,000, if the wages referred to in subparagraph i, in relation to a taxation year or fiscal period of the qualified outside consultant, are paid or, as the case may be, deemed to be paid to a qualified patternmaker; and

(b) if the qualified corporation is dealing at arm's length with the qualified outside consultant at the time the contract is entered into, the expenditure that it incurs in the year and that is 65% of all or part of the cost of the contract that may reasonably be attributed to the design activity or to a pattern drafting activity provided for in the contract that the qualified outside consultant carried out in Québec in the particular year or a preceding taxation year, to the extent that the expenditure is paid and is reasonable in the circumstances.”;

(2) by adding the following paragraphs after the third paragraph:

“However, the first paragraph does not apply to a qualified corporation whose gross revenue for the particular year from the carrying on of the business referred to in that paragraph is less than \$150,000 or, if the taxation year of a qualified corporation has fewer than 52 weeks, less than the amount obtained by multiplying \$150,000 by the proportion that the number of weeks in the taxation year is of 52.

For the purposes of subparagraphs ii and iii of subparagraph *a* of the first paragraph, the amount of \$60,000 or \$40,000 is to be replaced by the amount obtained by multiplying that amount by the proportion that the number of days in the taxation year or fiscal period of the qualified outside consultant during which the qualified designer or qualified patternmaker, as the case may be, reports for work at an establishment of the employer situated in Québec and

during which the qualified designer or qualified patternmaker carries out the design activity or the pattern drafting activity provided for in the contract, is of 365.

The documents to which the first paragraph refers are

- (a) the prescribed form containing the prescribed information;
- (b) a copy of the certificate issued for the particular year to the qualified corporation by the Minister of Economic Development, Innovation and Export Trade; and
- (c) a copy of the certificate of qualification issued to the qualified outside consultant by the Minister of Economic Development, Innovation and Export Trade.”

(2) Paragraph 1 of subsection 1 and paragraph 2 of that subsection, when it enacts the fifth and sixth paragraphs of section 1029.8.36.5 of the Act, apply in respect of an expenditure incurred after 21 April 2005 for work that relates to a design or pattern drafting activity and that is carried out after that date, under a contract entered into with a qualified outside consultant after that date.

(3) Paragraph 2 of subsection 1, when it enacts the fourth paragraph of section 1029.8.36.5 of the Act, applies to a taxation year that begins after 21 April 2005.

(4) In addition, when the first paragraph of section 1029.8.36.5 of the Act applies after 17 February 2005, it reads as if “Minister of Economic and Regional Development and Research” was replaced by “Minister of Economic Development, Innovation and Export Trade”.

**137.** (1) Section 1029.8.36.6 of the Act is amended

(1) by replacing the first paragraph by the following paragraph:

**“1029.8.36.6.** If the Minister of Economic Development, Innovation and Export Trade issues a certificate to a qualified partnership for a particular fiscal period, in respect of a design activity, in connection with a business it carries on in Québec, carried out under a contract entered into with a qualified outside consultant, each qualified corporation that is a member of the qualified partnership at the end of that fiscal period and that encloses the documents referred to in the sixth paragraph with the fiscal return it is required to file under section 1000 for its taxation year in which the particular fiscal period ends, is deemed, subject to the third paragraph, to have paid to the Minister on the corporation’s balance-due day for that year, on account of its tax payable for that year under this Part, an amount equal to 15% of its share of

(a) if the qualified partnership is not dealing at arm’s length with the qualified outside consultant at the time the contract is entered into, the

aggregate of all amounts each of which, determined in relation to a qualified designer or, as the case may be, to a qualified patternmaker, who reports for work at an establishment of the qualified outside consultant situated in Québec, is the expenditure that it incurs in the particular fiscal period, to the extent that the expenditure is paid and is reasonable in the circumstances, and that is the least of

i. the part of the cost of the contract that may reasonably be attributed to the wages paid by the qualified outside consultant to the qualified designer or qualified patternmaker in a taxation year of the qualified outside consultant or, if the qualified outside consultant is a partnership, in a fiscal period of the qualified outside consultant and before the end of the particular fiscal period, in relation to the part of the design activity, or to the part of the pattern drafting activity provided for in the contract, that is carried out in Québec in the particular fiscal period or in a preceding fiscal period, or that could be so attributed if the qualified outside consultant had such employees,

ii. \$60,000, if the wages referred to in subparagraph i, in relation to a taxation year or fiscal period of the qualified outside consultant, are paid or, as the case may be, deemed to be paid to a qualified designer, and

iii. \$40,000, if the wages referred to in subparagraph i, in relation to a taxation year or fiscal period of the qualified outside consultant, are paid or, as the case may be, deemed to be paid to a qualified patternmaker; and

(b) if the qualified partnership is dealing at arm's length with the qualified outside consultant at the time the contract is entered into, the expenditure that the qualified partnership incurs in the particular fiscal period and that is 65% of all or part of the cost of the contract that may reasonably be attributed to the design activity or to a pattern drafting activity provided for in the contract that the qualified outside consultant carried out in Québec in the particular fiscal period or a preceding fiscal period, to the extent that the expenditure is paid and is reasonable in the circumstances.”;

(2) by adding the following paragraphs after the third paragraph:

“However, the first paragraph does not apply where the amount that would be the qualified partnership's gross revenue for the particular fiscal period from the carrying on of the business referred to in that paragraph, if, for the purposes of the definition of “gross revenue” in section 1, the qualified partnership were a corporation, is less than \$150,000 or, where the qualified partnership's fiscal period has fewer than 52 weeks, less than the amount obtained by multiplying \$150,000 by the proportion that the number of weeks in the fiscal period is of 52.

For the purposes of subparagraphs ii and iii of subparagraph *a* of the first paragraph, the amount of \$60,000 or \$40,000 is to be replaced by the amount obtained by multiplying that amount by the proportion that the number of days in the taxation year or fiscal period of the qualified outside consultant during which the qualified designer or qualified patternmaker, as the case may be,

reports for work at an establishment of the employer situated in Québec and during which the qualified designer or qualified patternmaker carries out the design activity or the pattern drafting activity provided for in the contract, is of 365.

The documents to which the first paragraph refers are

- (a) the prescribed form containing the prescribed information;
- (b) a copy of the certificate issued for the particular fiscal period to the qualified partnership by the Minister of Economic Development, Innovation and Export Trade; and
- (c) a copy of the certificate of qualification issued to the qualified outside consultant by the Minister of Economic Development, Innovation and Export Trade.”

(2) Paragraph 1 of subsection 1 and paragraph 2 of that subsection, when it enacts the fifth and sixth paragraphs of section 1029.8.36.6 of the Act, apply in respect of an expenditure incurred after 21 April 2005 for work that relates to a design or pattern drafting activity and that is carried out after that date, under a contract entered into with a qualified outside consultant after that date.

(3) Paragraph 2 of subsection 1, when it enacts the fourth paragraph of section 1029.8.36.6 of the Act, applies to a fiscal period that begins after 21 April 2005.

(4) In addition, when the first paragraph of section 1029.8.36.6 of the Act applies after 17 February 2005, it reads as if “Minister of Economic and Regional Development and Research” was replaced by “Minister of Economic Development, Innovation and Export Trade”.

**138.** (1) Section 1029.8.36.7 of the Act is amended

(1) by replacing the first paragraph by the following paragraph:

**“1029.8.36.7.** A qualified corporation in respect of which the Minister of Economic Development, Innovation and Export Trade issues a certificate for a period of a taxation year, in respect of a design activity in connection with a business it carries on in Québec and that encloses the documents referred to in the sixth paragraph with the fiscal return it is required to file under section 1000 for the year, is deemed, subject to the second paragraph, to have paid to the Minister on the corporation’s balance-due day for that year, on account of its tax payable for that year under this Part, an amount equal to 15% of the aggregate of

(a) the aggregate of all amounts each of which is the lesser of

i. the wages incurred by the qualified corporation, as part of the design activity and in the period described in the certificate, in respect of a qualified designer who reports for work at an establishment of the qualified corporation situated in Québec, to the extent that the wages are paid and

(1) are reasonably attributable to the carrying out of the design activity in Québec in the period, and

(2) are reasonable in the circumstances, and

ii. \$60,000; and

(b) the aggregate of all amounts each of which is the lesser of

i. the wages incurred by the qualified corporation, as part of a pattern drafting activity that derives from the design activity and in the period described in the certificate, in respect of a qualified patternmaker who reports for work at an establishment of the qualified corporation situated in Québec, to the extent that the wages are paid and

(1) are reasonably attributable to the carrying out of the pattern drafting activity in Québec in the period, and

(2) are reasonable in the circumstances, and

ii. \$40,000.”;

(2) by replacing subparagraphs *a* and *b* of the third paragraph by the following subparagraphs:

“(a) if wages incurred in a taxation year are reasonably attributable to the carrying out of a design activity or pattern drafting activity in a taxation year subsequent to the year, the wages are deemed to be incurred in that subsequent taxation year; and

“(b) if wages incurred in a period, in respect of a qualified designer or qualified patternmaker, are attributable, in a proportion of at least 90%, to the carrying out of a design activity or pattern drafting activity, as the case may be, the wages are deemed to be wholly attributable to that design activity or pattern drafting activity.”;

(3) by adding the following paragraphs after the fourth paragraph:

“For the purposes of subparagraph ii of subparagraphs *a* and *b* of the first paragraph, the amount of \$60,000 or \$40,000 is to be replaced by the amount obtained by multiplying that amount by the proportion that the number of days during which the qualified designer or qualified patternmaker is an employee of the qualified corporation in the period referred to in subparagraph i of that subparagraph *a* or *b*, is of 365.

The documents to which the first paragraph refers are

(a) the prescribed form containing the prescribed information;

(b) a copy of the certificate issued for a period of the year to the qualified corporation by the Minister of Economic Development, Innovation and Export Trade; and

(c) a copy of any certificate of qualification issued by the Minister of Economic Development, Innovation and Export Trade to a qualified designer or qualified patternmaker referred to in the first paragraph.”

(2) Paragraphs 1 and 3 of subsection 1 apply to a taxation year of a corporation in respect of which a certificate is issued by the Minister of Economic Development, Innovation and Export Trade after 21 April 2005 in relation to a design activity of the corporation. However,

(1) when section 1029.8.36.7 of the Act applies in respect of wages incurred in the taxation year covered by the certificate, other than wages incurred after 21 April 2005 for work that relates to a pattern drafting activity of the corporation and that is carried out after that date by a qualified patternmaker,

(a) the first paragraph of section 1029.8.36.7 reads as follows:

**“1029.8.36.7.** A qualified corporation in respect of which the Minister of Economic Development, Innovation and Export Trade issues a certificate for a period of a taxation year, in respect of a design activity in connection with a business it carries on in Québec and that encloses the documents referred to in the sixth paragraph with the fiscal return it is required to file under section 1000 for the year, is deemed, subject to the second paragraph, to have paid to the Minister on the corporation’s balance-due day for that year, on account of its tax payable for that year under this Part, an amount equal to 15% of the aggregate of all amounts each of which is the lesser of \$60,000 and the wages incurred by the qualified corporation, as part of the design activity and in the period described in the certificate, in respect of a qualified designer who reports for work at an establishment of the qualified corporation situated in Québec, to the extent that the wages are paid and

(a) are reasonably attributable to the carrying out of the design activity in Québec in the period; and

(b) are reasonable in the circumstances.”,

(b) the fifth paragraph of section 1029.8.36.7 reads as follows:

“For the purposes of the first paragraph, the amount of \$60,000 is to be replaced by the amount obtained by multiplying that amount by the proportion that the number of days during which the qualified designer is an employee of the qualified corporation in the period referred to in that paragraph, is of 365.”, and

(c) subparagraph *c* of the sixth paragraph of section 1029.8.36.7 reads as follows:

“(c) a copy of any certificate of qualification issued by the Minister of Economic Development, Innovation and Export Trade to a qualified designer referred to in the first paragraph.”; and

(2) when section 1029.8.36.7 of the Act applies in respect of wages incurred for a period of a taxation year that includes that date

(a) the sixth paragraph of that section reads as if subparagraphs *b* and *c* were replaced by the following subparagraphs:

“(b) a copy of the certificate issued for a period of the year to the qualified corporation by the Minister of Economic Development, Innovation and Export Trade, including, if the certificate referred to in the definition of “qualified designer” in the first paragraph of section 1029.8.36.4 was not issued in respect of a designer, the name of that designer; and

“(c) a copy of any certificate of qualification issued by the Minister of Economic Development, Innovation and Export Trade to a qualified designer referred to in the first paragraph, if the name of that designer does not appear on the certificate referred to in subparagraph *b*, or to a qualified patternmaker referred to in the first paragraph.”, and

(b) section 1029.8.36.7 reads as if the following paragraph was added after the sixth paragraph:

“For the purposes of the definition of “qualified designer” in the first paragraph of section 1029.8.36.4, except in respect of the application of that definition to subparagraph *b* of the sixth paragraph, a certificate issued to a qualified corporation by the Minister of Economic Development, Innovation and Export Trade that includes the name of an individual as a designer, is deemed to have been also issued to that individual.”

(3) Paragraph 2 of subsection 1, when it enacts subparagraph *a* of the third paragraph of section 1029.8.36.7 of the Act, applies in respect of wages incurred after 21 April 2005 for work that relates to a pattern drafting activity of the corporation and that is carried out after that date by a qualified patternmaker.

(4) Paragraph 2 of subsection 1, when it enacts subparagraph *b* of the third paragraph of section 1029.8.36.7 of the Act, has effect from 22 April 2005. However, when that subparagraph *b* applies in respect of wages other than wages incurred after 21 April 2005 for work that relates to a pattern drafting activity of the corporation and that is carried out after that date by a qualified patternmaker, it reads as follows:



“(b) if wages incurred in a period, in respect of a qualified designer, are attributable, in a proportion of at least 90%, to the carrying out of a design activity, the wages are deemed to be wholly attributable to that design activity.”

(5) In addition, when section 1029.8.36.7 of the Act applies after 17 February 2005, it reads as if “Minister of Economic and Regional Development and Research” was replaced wherever it appears by “Minister of Economic Development, Innovation and Export Trade”.

**139.** (1) The Act is amended by inserting the following sections after section 1029.8.36.7:

**“1029.8.36.7.1.** If the Minister of Economic Development, Innovation and Export Trade issues a certificate to a qualified partnership for a period of a fiscal period, in respect of a design activity in connection with a business it carries on in Québec, each qualified corporation that is a member of the qualified partnership at the end of that fiscal period and that encloses the documents referred to in the sixth paragraph with the fiscal return it is required to file under section 1000 for its taxation year in which the partnership’s fiscal period ends, is deemed, subject to the second paragraph, to have paid to the Minister on the corporation’s balance-due day for that year, on account of its tax payable for that year under this Part, an amount equal to 15% of its share of the aggregate of

(a) the aggregate of all amounts each of which is the lesser of

i. the wages incurred by the qualified partnership, as part of the design activity and in the period described in the certificate, in respect of a qualified designer who reports for work at an establishment of the qualified partnership situated in Québec, to the extent that the wages are paid and

(1) are reasonably attributable to the carrying out of the design activity in Québec in the period, and

(2) are reasonable in the circumstances, and

ii. \$60,000; and

(b) the aggregate of all amounts each of which is the lesser of

i. the wages incurred by the qualified partnership, as part of a pattern drafting activity that derives from the design activity and in the period described in the certificate, in respect of a qualified patternmaker who reports for work at an establishment of the qualified partnership situated in Québec, to the extent that the wages are paid and

(1) are reasonably attributable to the carrying out of the pattern drafting activity in Québec in the period, and

(2) are reasonable in the circumstances, and

ii. \$40,000.

For the purpose of computing the payments that a corporation referred to in the first paragraph is required to make under subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, for its taxation year in which the fiscal period of the qualified partnership ends, the corporation is deemed to have paid to the Minister, on account of the aggregate of its tax payable for the year under this Part and of its tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(*a*) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(*b*) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.

The first paragraph applies with reference to the following rules:

(*a*) if wages incurred in a fiscal period are reasonably attributable to the carrying out of a design activity or pattern drafting activity in a fiscal period subsequent to the fiscal period, the wages are deemed to be incurred in that subsequent fiscal period;

(*b*) if wages incurred in a period, in respect of a qualified designer or qualified patternmaker, are attributable, in a proportion of at least 90%, to the carrying out of a design activity or pattern drafting activity, as the case may be, the wages are deemed to be wholly attributable to that design activity or pattern drafting activity; and

(*c*) the share of a qualified corporation of wages incurred by a qualified partnership of which it is a member is equal to the proportion of that expenditure that the share of the qualified corporation of the income or loss of the partnership for the fiscal period of the partnership ending in its taxation year is of the income or loss of the partnership for that fiscal period, on the assumption that, if the income and loss of the partnership for that fiscal period are nil, the partnership's income for that fiscal period is equal to \$1,000,000.

However, the first paragraph does not apply where the amount that would be the qualified partnership's gross revenue for the fiscal period from the carrying on of the business referred to in that paragraph, if, for the purposes of

the definition of “gross revenue” in section 1, the qualified partnership were a corporation, is less than \$150,000 or, where the qualified partnership’s fiscal period has fewer than 52 weeks, less than the amount obtained by multiplying \$150,000 by the proportion that the number of weeks in the fiscal period is of 52.

For the purposes of subparagraph ii of subparagraphs *a* and *b* of the first paragraph, the amount of \$60,000 or \$40,000 is to be replaced by the amount obtained by multiplying that amount by the proportion that the number of days during which the qualified designer or qualified patternmaker is an employee of the qualified partnership in the period referred to in subparagraph i of that subparagraph *a* or *b*, is of 365.

The documents to which the first paragraph refers are

- (a) the prescribed form containing the prescribed information;
- (b) a copy of the certificate issued for a period of the fiscal period to the qualified partnership by the Minister of Economic Development, Innovation and Export Trade; and
- (c) a copy of any certificate of qualification issued by the Minister of Economic Development, Innovation and Export Trade to a qualified designer or qualified patternmaker referred to in the first paragraph.

**“1029.8.36.7.2.** For the purposes of sections 1029.8.36.5 to 1029.8.36.7.1,

(a) if, during all or part of a taxation year or fiscal period, an employee reports for work at an establishment of the employer situated in Québec and at an establishment of the employer situated outside Québec, the employee is, for that period, deemed

i. unless subparagraph ii applies, to report for work only at the establishment situated in Québec, or

ii. to report for work only at the establishment situated outside Québec if, during that period, the employee reports for work mainly at an establishment of the employer situated outside Québec; and

(b) if, during all or part of a taxation year or fiscal period, an employee is not required to report for work at an establishment of the employer and the employee’s salary or wages in relation to that period are paid from such an establishment situated in Québec, the employee is deemed to report for work at that establishment if the duties performed by the employee during that period are performed mainly in Québec.”

(2) Subsection 1, when it enacts section 1029.8.36.7.1 of the Act, applies to a fiscal period of a partnership that ends after 21 April 2005. However, when section 1029.8.36.7.1 of the Act applies in respect of wages, other than

wages incurred after 21 April 2005 for work that relates to a pattern drafting activity of the qualified partnership and that is carried out after that date by a qualified patternmaker,

(1) the first paragraph of section 1029.8.36.7.1 reads as follows:

**“1029.8.36.7.1.** If the Minister of Economic Development, Innovation and Export Trade issues a certificate to a qualified partnership for a period of a fiscal period, in respect of a design activity in connection with a business it carries on in Québec, each qualified corporation that is a member of the qualified partnership at the end of that fiscal period and that encloses the documents referred to in the sixth paragraph with the fiscal return it is required to file under section 1000 for its taxation year in which the partnership’s fiscal period ends, is deemed, subject to the second paragraph, to have paid to the Minister on the corporation’s balance-due day for that year, on account of its tax payable for that year under this Part, an amount equal to 15% of its share of the aggregate of all amounts each of which is the lesser of \$60,000 and the wages incurred by the qualified partnership, as part of the design activity and in the period described in the certificate, in respect of a qualified designer who reports for work at an establishment of the partnership situated in Québec, to the extent that the wages are paid and

(a) are reasonably attributable to the carrying out of the design activity in Québec in the period; and

(b) are reasonable in the circumstances.”;

(2) subparagraphs *a* and *b* of the third paragraph of section 1029.8.36.7.1 of the Act read as follows:

“(a) if wages incurred in a fiscal period are reasonably attributable to the carrying out of a design activity in a fiscal period subsequent to the fiscal period, the wages are deemed to be incurred in that subsequent fiscal period;

“(b) if wages incurred in a period, in respect of a qualified designer, are attributable, in a proportion of at least 90%, to the carrying out of a design activity, the wages are deemed to be wholly attributable to that design activity; and”;

(3) the fifth paragraph of section 1029.8.36.7.1 of the Act reads as follows:

“For the purposes of the first paragraph, the amount of \$60,000 is to be replaced by the amount obtained by multiplying that amount by the proportion that the number of days during which the qualified designer is an employee of the qualified partnership in the period referred to in that paragraph, is of 365.”; and

(4) the sixth paragraph of section 1029.8.36.7.1 of the Act reads as if its subparagraph *c* was replaced by the following subparagraph:

“(c) a copy of any certificate of qualification issued by the Minister of Economic Development, Innovation and Export Trade to a qualified designer referred to in the first paragraph.”

(3) Subsection 1, when it enacts section 1029.8.36.7.2 of the Act, applies to a taxation year of a corporation or a fiscal period of a partnership that ends after 21 April 2005.

**140.** (1) Section 1029.8.36.10 of the Act is amended by replacing “1029.8.36.5 to 1029.8.36.7” wherever it appears in the first paragraph by “1029.8.36.5 to 1029.8.36.7.1”.

(2) Subsection 1 has effect from 22 April 2005.

**141.** (1) Section 1029.8.36.15 of the Act is amended by replacing “1029.8.36.5 to 1029.8.36.7” wherever it appears by “1029.8.36.5 to 1029.8.36.7.1”.

(2) Subsection 1 has effect from 22 April 2005.

**142.** (1) Section 1029.8.36.16 of the Act is amended, in the first paragraph,

(1) by replacing “Minister of Economic and Regional Development and Research” wherever it appears in the portion before subparagraph *a* by “Minister of Economic Development, Innovation and Export Trade”;

(2) by replacing subparagraphs *b* to *d* by the following subparagraphs:

“(b) no amount may be deemed, under section 1029.8.36.5, to have been paid to the Minister by a qualified corporation in respect of an expenditure incurred by the corporation in respect of a contract entered into with a qualified outside consultant in relation to a design activity carried out under that contract, if the certificate issued to the corporation in respect of the design activity or the certificate of qualification issued to the qualified outside consultant is revoked;

“(c) no amount may be deemed, under section 1029.8.36.6, to have been paid to the Minister by a qualified corporation in respect of an expenditure incurred by a partnership of which it is a member in respect of a contract entered into with a qualified outside consultant in relation to a design activity carried out under that contract, if the certificate issued to the partnership in respect of the design activity or the certificate of qualification issued to the qualified outside consultant is revoked;

“(d) no amount may be deemed, under section 1029.8.36.7, to have been paid to the Minister by a qualified corporation in respect of wages incurred as part of a design or pattern drafting activity referred to in the first paragraph of that section and carried out by a qualified designer or qualified patternmaker, if

i. the certificate issued to the corporation, in respect of the design activity, is revoked, or

ii. the certificate of qualification issued to the qualified designer or qualified patternmaker is revoked; and”;

(3) by adding the following subparagraph after subparagraph *d*:

“(e) no amount may be deemed, under section 1029.8.36.7.1, to have been paid to the Minister by a qualified corporation in respect of wages incurred by a qualified partnership of which it is a member as part of a design or pattern drafting activity referred to in the first paragraph of that section and carried out by a qualified designer or qualified patternmaker, if

i. the certificate issued to the partnership, in respect of the design activity, is revoked, or

ii. the certificate of qualification issued to the qualified designer or qualified patternmaker is revoked.”

(2) Paragraph 1 of subsection 1 has effect from 18 February 2005.

(3) Paragraphs 2 and 3 of subsection 1 have effect from 22 April 2005.

**143.** (1) Section 1029.8.36.18 of the Act is replaced by the following section:

**“1029.8.36.18.** For the purpose of computing the amount that is deemed to have been paid to the Minister, for a taxation year, by a qualified corporation under section 1029.8.36.5 or 1029.8.36.6, the following rules apply:

(a) the wages referred to in subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.5 and paid to a qualified designer or qualified patternmaker by a qualified outside consultant are to be reduced, where applicable, by the amount of any contract payment, government assistance or non-government assistance, attributable to the wages, that the qualified outside consultant or qualified corporation has received, is entitled to receive or may reasonably expect to receive on or before the qualified corporation’s filing-due date for the taxation year;

(b) the expenditure referred to in subparagraph *b* of the first paragraph of section 1029.8.36.5 is to be reduced, where applicable, by the amount of any contract payment, government assistance, non-government assistance or apparent payment, attributable to the expenditure, that the qualified corporation or, in the case of an apparent payment, a person with whom the qualified corporation does not deal at arm’s length has received, is entitled to receive or may reasonably expect to receive on or before the qualified corporation’s filing-due date for the taxation year;

(c) the share of a qualified corporation that is a member of a qualified partnership of wages referred to in subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.6 and paid to a qualified designer or qualified patternmaker by a qualified outside consultant is to be reduced, where applicable,

i. by its share of the amount of any contract payment, government assistance or non-government assistance, attributable to the wages, that the qualified outside consultant or qualified partnership has received, is entitled to receive or may reasonably expect to receive on or before the day that is six months after the end of the fiscal period of the partnership in which the wages were incurred, or

ii. by the amount of any contract payment, government assistance or non-government assistance, attributable to the wages, that the qualified corporation has received, is entitled to receive or may reasonably expect to receive on or before the day that is six months after the end of the fiscal period of the partnership in which the wages were incurred; and

(d) the share of a qualified corporation that is a member of a qualified partnership of an expenditure referred to in subparagraph *b* of the first paragraph of section 1029.8.36.6 is to be reduced, where applicable,

i. by its share of the amount of any contract payment, government assistance, non-government assistance or apparent payment, attributable to the expenditure, that the qualified partnership has received, is entitled to receive or may reasonably expect to receive on or before the day that is six months after the end of the fiscal period of the partnership in which the expenditure was incurred, or

ii. by the amount of any contract payment, government assistance, non-government assistance or apparent payment, attributable to the expenditure, that the qualified corporation or, in the case of an apparent payment, a person with whom the qualified corporation does not deal at arm's length has received, is entitled to receive or may reasonably expect to receive on or before the day that is six months after the end of the fiscal period of the partnership in which the expenditure was incurred.

For the purposes of subparagraph i of subparagraphs *c* and *d* of the first paragraph, the qualified corporation's share of the amount of any contract payment, government assistance, non-government assistance or apparent payment that the qualified partnership has received, is entitled to receive or may reasonably expect to receive, is equal to the proportion of that amount that the share of the qualified corporation of the income or loss of the partnership for the fiscal period of the partnership ending in its taxation year is of the income or loss of the partnership for that fiscal period, on the assumption that, if the income and loss of the partnership for that fiscal period are nil, the partnership's income for that fiscal period is equal to \$1,000,000."

(2) Subsection 1 applies in respect of an expenditure incurred after 21 April 2005 for work that relates to a design or pattern drafting activity and that is carried out after that date, under a contract entered into with a qualified outside consultant after that date.

**144.** (1) The Act is amended by inserting the following sections after section 1029.8.36.18:

**“1029.8.36.18.1.** For the purpose of computing the amount that is deemed to have been paid to the Minister, for a taxation year, by a qualified corporation under section 1029.8.36.7 or 1029.8.36.7.1, the following rules apply:

(a) the wages incurred by the qualified corporation and referred to in subparagraph i of subparagraph *a* or *b* of the first paragraph of section 1029.8.36.7 are to be reduced, where applicable, by the amount of any contract payment, government assistance or non-government assistance, attributable to the wages, that the qualified corporation has received, is entitled to receive or may reasonably expect to receive on or before the qualified corporation’s filing-due date for the taxation year;

(b) the share of a qualified corporation that is a member of a qualified partnership of wages referred to in subparagraph i of subparagraph *a* or *b* of the first paragraph of section 1029.8.36.7.1 and incurred by the qualified partnership is to be reduced, where applicable,

i. by its share of the amount of any contract payment, government assistance or non-government assistance, attributable to the wages, that the qualified partnership has received, is entitled to receive or may reasonably expect to receive on or before the day that is six months after the end of the fiscal period of the partnership in which the wages were incurred, or

ii. by the amount of any contract payment, government assistance or non-government assistance, attributable to the wages, that the qualified corporation has received, is entitled to receive or may reasonably expect to receive on or before the day that is six months after the end of the fiscal period of the partnership in which the wages were incurred.

For the purposes of subparagraph i of subparagraph *b* of the first paragraph, the qualified corporation’s share of the amount of any contract payment, government assistance or non-government assistance that the qualified partnership has received, is entitled to receive or may reasonably expect to receive, is equal to the proportion of that amount that the share of the qualified corporation of the income or loss of the partnership for the fiscal period of the partnership ending in its taxation year is of the income or loss of the partnership for that fiscal period, on the assumption that, if the income and loss of the partnership for that fiscal period are nil, the partnership’s income for that fiscal period is equal to \$1,000,000.



**“1029.8.36.18.2.** If, in respect of a contract entered into with a qualified outside consultant providing for the carrying out of a design activity, a person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain a benefit or advantage, other than a benefit or advantage that may reasonably be attributed to the carrying out of the design activity, whether in the form of a reimbursement, compensation or guarantee, in the form of proceeds of disposition of a property which exceed the fair market value of the property, or in any other form or manner, the following rules apply:

(a) for the purpose of computing the amount that is deemed to have been paid to the Minister for a taxation year by a qualified corporation under section 1029.8.36.5, the expenditure referred to in that section is to be reduced by the amount of the benefit or advantage that the person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain on or before the qualified corporation’s filing-due date for the taxation year; and

(b) for the purpose of computing the amount that is deemed to have been paid to the Minister under section 1029.8.36.6 by a qualified corporation that is a member of a qualified partnership for a taxation year, the qualified corporation’s share of the expenditure referred to in that section is to be reduced

i. by its share of the amount of the benefit or advantage that a partnership or a person other than a person referred to in subparagraph ii has obtained, is entitled to obtain or may reasonably expect to obtain on or before the day that is six months after the end of the fiscal period of the qualified partnership in which the expenditure was incurred, and

ii. by the amount of the benefit or advantage that the qualified corporation or a person with whom the qualified corporation does not deal at arm’s length has obtained, is entitled to obtain or may reasonably expect to obtain on or before the day that is six months after the end of the fiscal period of the qualified partnership in which the expenditure was incurred.

For the purposes of subparagraph i of subparagraph b of the first paragraph, the qualified corporation’s share of the amount of the benefit or advantage that a partnership or person has obtained, is entitled to obtain or may reasonably expect to obtain, is equal to the proportion of that amount that the share of the qualified corporation of the income or loss of the qualified partnership for the fiscal period of the qualified partnership ending in its taxation year is of the income or loss of the qualified partnership for that fiscal period, on the assumption that, if the income and loss of the qualified partnership for that fiscal period are nil, the qualified partnership’s income for that fiscal period is equal to \$1,000,000.

**“1029.8.36.18.3.** If, in respect of the employment of an individual with a qualified corporation or qualified partnership as a qualified designer or qualified patternmaker, a person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain a benefit or advantage, other than a

benefit or advantage that may reasonably be attributed to the employment, whether in the form of a reimbursement, compensation or guarantee, in the form of proceeds of disposition of a property which exceed the fair market value of the property, or in any other form or manner, the following rules apply:

(a) for the purpose of computing the amount that is deemed to have been paid to the Minister for a taxation year by the qualified corporation under section 1029.8.36.7, the wages incurred by the qualified corporation and referred to in subparagraph i of subparagraph *a* or *b* of the first paragraph of section 1029.8.36.7, in respect of the qualified corporation for the taxation year, in relation to the qualified designer or qualified patternmaker, are to be reduced by the amount of the benefit or advantage that the person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain on or before the qualified corporation's filing-due date for the taxation year; and

(b) for the purpose of computing the amount that is deemed to have been paid to the Minister under section 1029.8.36.7.1 by a qualified corporation that is a member of the qualified partnership for a taxation year, the qualified corporation's share of wages incurred by the qualified partnership and referred to in subparagraph i of subparagraph *a* or *b* of the first paragraph of section 1029.8.36.7.1, in respect of the qualified corporation for the taxation year, in relation to the qualified designer or qualified patternmaker, is to be reduced

i. by its share of the amount of the benefit or advantage that a partnership or a person other than a person referred to in subparagraph ii has obtained, is entitled to obtain or may reasonably expect to obtain on or before the day that is six months after the end of the fiscal period of the qualified partnership in which the wages were incurred, and

ii. by the amount of the benefit or advantage that the qualified corporation or a person with whom the qualified corporation does not deal at arm's length has obtained, is entitled to obtain or may reasonably expect to obtain on or before the day that is six months after the end of the fiscal period of the qualified partnership in which the wages were incurred.

For the purposes of subparagraph i of subparagraph *b* of the first paragraph, the qualified corporation's share of the amount of the benefit or advantage that a partnership or person has obtained, is entitled to obtain or may reasonably expect to obtain, is equal to the proportion of that amount that the share of the qualified corporation of the income or loss of the qualified partnership for the fiscal period of the qualified partnership ending in its taxation year is of the income or loss of the qualified partnership for that fiscal period, on the assumption that, if the income and loss of the qualified partnership for that fiscal period are nil, the qualified partnership's income for that fiscal period is equal to \$1,000,000."

(2) Subsection 1, when it enacts sections 1029.8.36.18.1 and 1029.8.36.18.3 of the Act, applies to a taxation year of a corporation or a fiscal period of a partnership that ends after 21 April 2005. However,

(1) when section 1029.8.36.18.1 of the Act applies in respect of wages incurred by a corporation or partnership, other than wages incurred after 21 April 2005 for work that relates to a pattern drafting activity and that is carried out after that date by a qualified patternmaker, subparagraph *a* of the first paragraph of that section and the portion of subparagraph *b* of that first paragraph before subparagraph *i* reads as if “subparagraph *i* of subparagraph *a* or *b* of” was struck out; and

(2) when section 1029.8.36.18.3 of the Act applies in respect of wages, other than wages incurred after 21 April 2005 for work that relates to a pattern drafting activity of the qualified partnership and that is carried out after that date by a qualified patternmaker, the following rules apply:

(a) subparagraph *a* of the first paragraph of section 1029.8.36.18.3 of the Act reads as follows:

“(a) for the purpose of computing the amount that is deemed to have been paid to the Minister for a taxation year by the qualified corporation under section 1029.8.36.7, the wages incurred by the qualified corporation and referred to in the first paragraph of section 1029.8.36.7, in respect of the qualified corporation for the taxation year, in relation to the qualified designer, are to be reduced by the amount of the benefit or advantage that the person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain on or before the qualified corporation’s filing-due date for the taxation year; and”, and

(b) the portion of subparagraph *b* of the first paragraph of section 1029.8.36.18.3 of the Act before subparagraph *i* reads as follows:

“(b) for the purpose of computing the amount that is deemed to have been paid to the Minister under section 1029.8.36.7.1 by a qualified corporation that is a member of the qualified partnership for a taxation year, the qualified corporation’s share of wages incurred by the qualified partnership and referred to in the first paragraph of section 1029.8.36.7.1, in respect of the qualified corporation for the taxation year, in relation to the qualified designer, is to be reduced”.

(3) Subsection 1, when it enacts section 1029.8.36.18.2 of the Act, has effect from 22 April 2005.

**145.** (1) Sections 1029.8.36.20 to 1029.8.36.23 of the Act are replaced by the following sections:

**“1029.8.36.20.** If, in a taxation year, in this section referred to as the “repayment year”, a qualified corporation or a qualified outside consultant with whom the qualified corporation has entered into a contract for the

carrying out of a design activity pays, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance, or a person or partnership pays, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of a benefit or advantage, and the government assistance, non-government assistance, benefit or advantage, as the case may be, reduced, in accordance with subparagraph *a* or *b* of the first paragraph of section 1029.8.36.18 or with subparagraph *a* of the first paragraph of section 1029.8.36.18.2, as the case may be, an expenditure incurred by the qualified corporation in a particular taxation year for the purpose of computing the amount that the qualified corporation is deemed to have paid to the Minister for the particular taxation year under section 1029.8.36.5, the qualified corporation is deemed, if it encloses the prescribed form with the fiscal return it is required to file under section 1000 for the repayment year, to have paid to the Minister on the corporation's balance-due day for the repayment year, on account of its tax payable for that year under this Part, an amount equal to the amount by which the amount that it would be deemed to have paid to the Minister for the particular year under section 1029.8.36.5 in respect of the expenditure, if any amount of such assistance, benefit or advantage so repaid at or before the end of the repayment year had reduced, for the particular year, the government assistance, non-government assistance, benefit or advantage, exceeds the aggregate of

(a) the amount that the corporation is deemed to have paid to the Minister for the particular year under section 1029.8.36.5 in respect of the expenditure; and

(b) any amount that the corporation is deemed to have paid to the Minister for a taxation year preceding the repayment year under this section in respect of an amount of repayment of that assistance, benefit or advantage.

**“1029.8.36.21.** If, in a fiscal period, in this section referred to as the “fiscal period of repayment”, a qualified partnership or a qualified outside consultant with whom the qualified partnership has entered into a contract for the carrying out of a design activity pays, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance, or a person or partnership pays, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of a benefit or advantage, and the government assistance, non-government assistance, benefit or advantage, as the case may be, reduced, in accordance with subparagraph *i* of subparagraph *c* or *d* of the first paragraph of section 1029.8.36.18 or with subparagraph *i* of subparagraph *b* of the first paragraph of section 1029.8.36.18.2, as the case may be, the share of a corporation that is a member of the qualified partnership of an expenditure incurred by the qualified partnership in a particular fiscal period for the purpose of computing the amount that the corporation is deemed to have paid to the Minister under section 1029.8.36.6, in respect of the share, for its taxation year in which the particular fiscal period ended, the corporation is deemed, if it is a member of the qualified partnership at the end of the fiscal

period of repayment and if it encloses the prescribed form with the fiscal return it is required to file under section 1000, for its taxation year in which the fiscal period of repayment ends, to have paid to the Minister on the corporation's balance-due day for that year, on account of its tax payable for that year under this Part, an amount equal to the amount by which the particular amount that the corporation would be deemed, if the assumptions set out in the second paragraph were taken into account, to have paid to the Minister, in respect of the share, under section 1029.8.36.6 for its taxation year in which the particular fiscal period ends, exceeds the aggregate of

(a) the amount that the corporation would be deemed to have paid to the Minister under section 1029.8.36.6, for its taxation year in which the particular fiscal period ends, in respect of the expenditure incurred by the qualified partnership, if the corporation's share of the income or loss of the qualified partnership for the particular fiscal period was the same as the corporation's share for the fiscal period of repayment; and

(b) any amount that the corporation would be deemed to have paid to the Minister under this section for a taxation year preceding the taxation year in which the fiscal period of repayment ends, in respect of an amount paid by the qualified partnership, the person or the partnership, if the corporation's share of the income or loss of the qualified partnership for the particular fiscal period was the same as the corporation's share for the fiscal period of repayment.

The particular amount to which the first paragraph refers is to be computed as if

(a) any amount of assistance, of a benefit or of an advantage repaid at or before the end of the fiscal period of repayment had reduced, for the particular fiscal period, the amount of any government assistance, non-government assistance, benefit or advantage referred to in subparagraph i of subparagraph c or d of the first paragraph of section 1029.8.36.18 or in subparagraph i of subparagraph b of the first paragraph of section 1029.8.36.18.2; and

(b) the corporation's share of the income or loss of the qualified partnership for the particular fiscal period had been the same as the corporation's share for the fiscal period of repayment.

**“1029.8.36.22.** If, in a fiscal period, in this section referred to as the “fiscal period of repayment”, a qualified corporation that is a member of a qualified partnership at the end of the fiscal period of repayment pays, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that the qualified corporation has received, or the qualified corporation or a person with whom it is not dealing at arm's length pays, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of a benefit or advantage that the qualified corporation or the person has obtained, and the government assistance, non-government assistance, benefit or advantage, as the case may be, reduced, in accordance with subparagraph ii of subparagraph c

or *d* of the first paragraph of section 1029.8.36.18 or with subparagraph ii of subparagraph *b* of the first paragraph of section 1029.8.36.18.2, as the case may be, the qualified corporation's share of an expenditure incurred by the qualified partnership in a particular fiscal period for the purpose of computing the amount that the qualified corporation is deemed to have paid to the Minister under section 1029.8.36.6, in respect of the share, for its taxation year in which the particular fiscal period ended, the qualified corporation is deemed, if it encloses the prescribed form with the fiscal return it is required to file under section 1000, for its taxation year in which the fiscal period of repayment ends, to have paid to the Minister on the qualified corporation's balance-due day for that year, on account of its tax payable for that year under this Part, an amount equal to the amount by which the particular amount that the qualified corporation would be deemed, if the assumptions set out in the second paragraph were taken into account, to have paid to the Minister, in respect of the share, under section 1029.8.36.6 for its taxation year in which the particular fiscal period ends, exceeds the aggregate of

(a) the amount that the qualified corporation would be deemed to have paid to the Minister under section 1029.8.36.6, for its taxation year in which the particular fiscal period ends, in respect of the expenditure incurred by the qualified partnership, if the qualified corporation's share of the income or loss of the partnership for the particular fiscal period was the same as the qualified corporation's share for the fiscal period of repayment; and

(b) any amount that the qualified corporation would be deemed to have paid to the Minister under this section for a taxation year preceding the taxation year in which the fiscal period of repayment ends, in respect of an amount paid by the qualified corporation or the person with whom it is not dealing at arm's length, if the qualified corporation's share of the income or loss of the qualified partnership for the particular fiscal period was the same as the qualified corporation's share for the fiscal period of repayment.

The particular amount to which the first paragraph refers is to be computed as if

(a) any amount of assistance, of a benefit or of an advantage repaid at or before the end of the fiscal period of repayment had reduced, for the particular fiscal period, the amount of any government assistance, non-government assistance, benefit or advantage referred to in subparagraph ii of subparagraph *c* or *d* of the first paragraph of section 1029.8.36.18 or in subparagraph ii of subparagraph *b* of the first paragraph of section 1029.8.36.18.2; and

(b) the qualified corporation's share of the income or loss of the qualified partnership for the particular fiscal period had been the same as the qualified corporation's share for the fiscal period of repayment.

**“1029.8.36.23.** If, in a taxation year, in this section referred to as the “repayment year”, a corporation pays, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government

assistance or non-government assistance, or a person or partnership pays, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of a benefit or advantage, and the government assistance, non-government assistance, benefit or advantage, as the case may be, reduced the amount of wages incurred in respect of a qualified designer or qualified patternmaker, in accordance with subparagraph *a* of the first paragraph of section 1029.8.36.18.1 or 1029.8.36.18.3, as the case may be, in respect of which the qualified corporation is deemed to have paid an amount to the Minister under section 1029.8.36.7 for a particular taxation year, the qualified corporation is deemed, if it encloses the prescribed form with the fiscal return it is required to file under section 1000 for the repayment year, to have paid to the Minister on the qualified corporation's balance-due day for the repayment year, on account of its tax payable for that year under this Part, an amount equal to the amount by which the amount that it would be deemed to have paid to the Minister for the particular year under section 1029.8.36.7 in respect of the wages, if any amount of such assistance so repaid at or before the end of the repayment year had reduced, for the particular year, the government assistance, non-government assistance, benefit or advantage, exceeds the aggregate of

(a) the amount that the qualified corporation is deemed to have paid to the Minister for the particular year under section 1029.8.36.7 in respect of the wages incurred in relation to the qualified designer or qualified patternmaker; and

(b) any amount that the qualified corporation is deemed to have paid to the Minister for a taxation year preceding the repayment year under this section in respect of an amount paid by the qualified corporation as repayment of that assistance, benefit or advantage.”

(2) Subsection 1, when it enacts sections 1029.8.36.20 to 1029.8.36.22 of the Act, applies in respect of a repayment of assistance, of a benefit or of an advantage that occurs after 21 April 2005 and that reduced an expenditure incurred after that date in relation to a contract entered into with a qualified outside consultant after that date.

(3) Subsection 1, when it enacts section 1029.8.36.23 of the Act, applies in respect of a repayment of assistance, of a benefit or of an advantage that reduced wages incurred after 21 April 2005, for work that relates to a design activity or pattern drafting activity and that is carried out after that date.

(4) In addition,

(1) when sections 1029.8.36.20 to 1029.8.36.22 of the Act apply to a repayment of assistance, of a benefit or of an advantage that occurs after 21 April 2005 and that reduced an expenditure other than an expenditure incurred after 21 April 2005, in relation to a contract entered into with a qualified outside consultant after that date, the portion of those sections before paragraph *b* or subparagraph *b* reads as follows:



**“1029.8.36.20.** If, at a particular time, a qualified corporation, or a person or partnership pays, pursuant to a legal obligation, a particular amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that the qualified corporation has received, or to be a repayment of a benefit or advantage that the person or partnership has obtained, that reduced, in accordance with subparagraph *a* of the first paragraph of section 1029.8.36.18 or 1029.8.36.27, as the case may be, an expenditure incurred by the qualified corporation in respect of an outside consulting contract, for the purpose of computing the amount that it is deemed to have paid to the Minister for a taxation year under section 1029.8.36.5 in relation to the contract, the particular amount is deemed to be an expenditure referred to in that section, in relation to the contract, for the taxation year that includes the particular time and, for the purposes of section 1029.8.36.5 in respect of the expenditure, the following rules apply:

(*a*) the qualified corporation is deemed to hold a valid certificate issued for the taxation year that includes the particular time by the Minister of Economic Development, Innovation and Export Trade which mentions the outside consulting contract; and”;

**“1029.8.36.21.** If, at a particular time, a qualified partnership, or a person or partnership pays, pursuant to a legal obligation, a particular amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that the qualified partnership has received, or to be a repayment of a benefit or advantage that the person or partnership has obtained, that reduced, in accordance with subparagraph *i* of subparagraph *b* of the first paragraph of section 1029.8.36.18 or 1029.8.36.27, as the case may be, the share of a qualified corporation that is a member of the qualified partnership of an expenditure incurred by the qualified partnership in respect of an outside consulting contract, for the purpose of computing the amount that the qualified corporation is deemed to have paid to the Minister for a taxation year under section 1029.8.36.6 in relation to the contract, the particular amount is deemed to be an expenditure referred to in that section, in relation to the contract, for the fiscal period of the qualified partnership that includes the particular time and, for the purposes of section 1029.8.36.6 in respect of the expenditure, the following rules apply:

(*a*) the qualified partnership is deemed to hold a valid certificate issued for the fiscal period that includes the particular time by the Minister of Economic Development, Innovation and Export Trade which mentions the outside consulting contract; and”;

**“1029.8.36.22.** If, at a particular time, a qualified corporation that is a member of a qualified partnership or a person with whom the qualified corporation is not dealing at arm’s length pays, pursuant to a legal obligation, a particular amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that the qualified corporation has received, or to be a repayment of a benefit or advantage that the qualified corporation or the person has obtained, that reduced, in accordance



with subparagraph ii of subparagraph *b* of the first paragraph of section 1029.8.36.18 or 1029.8.36.27, as the case may be, the share of the qualified corporation of an expenditure incurred by the qualified partnership, for the purpose of computing the amount that the qualified corporation is deemed to have paid to the Minister for a taxation year under section 1029.8.36.6 in relation to an outside consulting contract, the particular amount is deemed to be the share of the qualified corporation of an expenditure referred to in that section, in relation to the contract, for the fiscal period of the qualified partnership that includes the particular time and, for the purposes of section 1029.8.36.6 in respect of the expenditure, the following rules apply:

(a) the qualified partnership is deemed to hold a valid certificate issued for the fiscal period that includes the particular time by the Minister of Economic Development, Innovation and Export Trade which mentions the outside consulting contract; and

(2) when section 1029.8.36.23 of the Act applies after 17 February 2005, subparagraph i of paragraph *b* of that section reads as if “Minister of Economic and Regional Development and Research” was replaced by “Minister of Economic Development, Innovation and Export Trade”.

**146.** (1) The Act is amended by inserting the following sections after section 1029.8.36.23:

**“1029.8.36.23.1.** If, in a fiscal period, in this section referred to as the “fiscal period of repayment”, a qualified partnership pays, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance, or a person or partnership pays, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of a benefit or advantage, and the government assistance, non-government assistance, benefit or advantage, as the case may be, reduced, in accordance with subparagraph i of subparagraph *b* of the first paragraph of section 1029.8.36.18.1 or 1029.8.36.18.3, as the case may be, the share of a qualified corporation that is a member of the qualified partnership of the amount of wages incurred by the qualified partnership in a particular fiscal period, in respect of a qualified designer or qualified patternmaker, for the purpose of computing the amount that the qualified corporation is deemed to have paid to the Minister under section 1029.8.36.7.1, for its taxation year in which the particular fiscal period ended, the qualified corporation is deemed, if it is a member of the qualified partnership at the end of the fiscal period of repayment and if it encloses the prescribed form with the fiscal return it is required to file under section 1000, for its taxation year in which the fiscal period of repayment ends, to have paid to the Minister on the qualified corporation’s balance-due day for that year, on account of its tax payable for that year under this Part, an amount equal to the amount by which the particular amount that the qualified corporation would be deemed, if the assumptions set out in the second paragraph were taken into account, to have paid to the Minister, in respect of the share, under section 1029.8.36.7.1 for its taxation year in which the particular fiscal period ends, exceeds the aggregate of

(a) the amount that the qualified corporation would be deemed to have paid to the Minister under section 1029.8.36.7.1, for its taxation year in which the particular fiscal period ends, in respect of the wages incurred by the qualified partnership in relation to the qualified designer or qualified patternmaker, if the qualified corporation's share of the income or loss of the partnership for the particular fiscal period was the same as the qualified corporation's share for the fiscal period of repayment; and

(b) any amount that the qualified corporation would be deemed to have paid to the Minister under this section for a taxation year preceding the taxation year in which the fiscal period of repayment ends, in respect of an amount paid by the qualified partnership, the person or the partnership, if the qualified corporation's share of the income or loss of the qualified partnership for the particular fiscal period was the same as the qualified corporation's share for the fiscal period of repayment.

The particular amount to which the first paragraph refers is to be computed as if

(a) any amount of assistance, of a benefit or of an advantage repaid at or before the end of the fiscal period of repayment had reduced, for the particular fiscal period, the amount of any government assistance, non-government assistance, benefit or advantage referred to in subparagraph i of subparagraph b of the first paragraph of section 1029.8.36.18.1 or 1029.8.36.18.3; and

(b) the qualified corporation's share of the income or loss of the qualified partnership for the particular fiscal period had been the same as the qualified corporation's share for the fiscal period of repayment.

**“1029.8.36.23.2.** If, in a fiscal period, in this section referred to as the “fiscal period of repayment”, a qualified corporation that is a member of a qualified partnership at the end of the fiscal period of repayment pays, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that the qualified corporation has received, or the qualified corporation or a person with whom it is not dealing at arm's length pays, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of a benefit or advantage that the qualified corporation or the person has obtained, and the government assistance, non-government assistance, benefit or advantage, as the case may be, reduced, in accordance with subparagraph ii of subparagraph b of the first paragraph of section 1029.8.36.18.1 or 1029.8.36.18.3, the qualified corporation's share of the amount of wages incurred by the qualified partnership in a particular fiscal period, in respect of a qualified designer or qualified patternmaker, for the purpose of computing the amount that the qualified corporation is deemed to have paid to the Minister under section 1029.8.36.7.1, for its taxation year in which the particular fiscal period ends, the qualified corporation is deemed, if it encloses the prescribed form with the fiscal return it is required to file under section 1000, for its taxation year in which the fiscal period of repayment ends, to have paid to the Minister on the qualified corporation's balance-due day for that year, on account of its tax payable for

that year under this Part, an amount equal to the amount by which the particular amount that the qualified corporation would be deemed, if the assumptions set out in the second paragraph were taken into account, to have paid to the Minister, in respect of the share, under section 1029.8.36.7.1 for its taxation year in which the particular fiscal period ends, exceeds the aggregate of

(a) the amount that the qualified corporation would be deemed to have paid to the Minister under section 1029.8.36.7.1, for its taxation year in which the particular fiscal period ends, in respect of the share, if the qualified corporation's share of the income or loss of the partnership for the particular fiscal period was the same as the qualified corporation's share for the fiscal period of repayment; and

(b) any amount that the qualified corporation would be deemed to have paid to the Minister under this section for a taxation year preceding the taxation year in which the fiscal period of repayment ends, in respect of an amount paid by the qualified corporation or the person with whom it is not dealing at arm's length, if the qualified corporation's share of the income or loss of the qualified partnership for the particular fiscal period was the same as the qualified corporation's share for the fiscal period of repayment.

The particular amount to which the first paragraph refers is to be computed as if

(a) any amount of assistance, of a benefit or of an advantage repaid at or before the end of the fiscal period of repayment had reduced, for the particular fiscal period, the amount of any government assistance, non-government assistance, benefit or advantage referred to in subparagraph ii of subparagraph b of the first paragraph of section 1029.8.36.18.1 or 1029.8.36.18.3; and

(b) the qualified corporation's share of the income or loss of the qualified partnership for the particular fiscal period had been the same as the qualified corporation's share for the fiscal period of repayment."

(2) Subsection 1 applies to a taxation year of a corporation or a fiscal period of a partnership that ends after 21 April 2005.

**147.** (1) Sections 1029.8.36.24 and 1029.8.36.25 of the Act are replaced by the following sections:

**"1029.8.36.24.** For the purposes of sections 1029.8.36.20 to 1029.8.36.22, an amount is deemed to be an amount paid as a repayment of assistance by a qualified corporation or qualified outside consultant that is a person in a taxation year, by a qualified partnership or qualified outside consultant that is a partnership in a fiscal period, or by a qualified corporation that is a member of a qualified partnership in a taxation year in which a fiscal period of the partnership ends, or as a repayment of a benefit or advantage by a person or partnership in a taxation year or fiscal period, as the case may be, if that amount

(a) was applied, because of section 1029.8.36.18 or 1029.8.36.18.2, in reduction of the expenditure referred to in section 1029.8.36.5 or of the share of the qualified corporation that is a member of the qualified partnership of the expenditure referred to in section 1029.8.36.6;

(b) was not received by the qualified corporation, the qualified outside consultant, the qualified partnership, the qualified corporation that is a member of the qualified partnership, the person or the partnership; and

(c) ceased, in the taxation year, the fiscal period or the taxation year in which the fiscal period of the partnership ends, to be an amount that the qualified corporation, the qualified outside consultant, the qualified partnership, the qualified corporation that is a member of the qualified partnership, the person or the partnership, as the case may be, can reasonably expect to receive.

**“1029.8.36.25.** For the purposes of sections 1029.8.36.23 to 1029.8.36.23.2, an amount is deemed to be an amount paid as a repayment of assistance by a qualified corporation in a taxation year, by a qualified partnership in a fiscal period, or by a qualified corporation that is a member of a qualified partnership in a taxation year in which the fiscal period of the partnership ends, or as a repayment of a benefit or advantage by a person or partnership in a taxation year or fiscal period, as the case may be, if that amount

(a) was applied, because of section 1029.8.36.18.1 or 1029.8.36.18.3, in reduction of the wages incurred by the qualified corporation and referred to in section 1029.8.36.7 or of the share of the qualified corporation that is a member of the qualified partnership of the wages incurred by the qualified partnership and referred to in section 1029.8.36.7.1;

(b) was not received by the qualified corporation, the qualified partnership, the qualified corporation that is a member of the qualified partnership, the person or the partnership; and

(c) ceased, in the taxation year, the fiscal period or the taxation year in which the fiscal period of the partnership ends, to be an amount that the qualified corporation, the qualified partnership, the qualified corporation that is a member of the qualified partnership, the person or the partnership, as the case may be, can reasonably expect to receive.”

(2) Subsection 1, when it enacts section 1029.8.36.24 of the Act, applies in respect of an amount that is an amount of assistance, a benefit or an advantage, and that reduced an expenditure incurred after 21 April 2005.

(3) Subsection 1, when it enacts section 1029.8.36.25 of the Act, applies to a taxation year of a corporation or a fiscal period of a partnership that ends after 21 April 2005.

(4) In addition, when section 1029.8.36.24 of the Act applies in respect of an amount that is an amount of assistance, a benefit or an advantage, and that reduced an expenditure other than an expenditure incurred after 21 April 2005, it reads as follows:

**“1029.8.36.24.** For the purposes of sections 1029.8.36.20 to 1029.8.36.22, an amount is deemed to be an amount paid as a repayment of assistance by a qualified corporation in a taxation year, by a qualified partnership in a fiscal period, or by a qualified corporation that is a member of a qualified partnership in a taxation year in which a fiscal period of the partnership ends, or as a repayment of a benefit or advantage by a person or partnership in a taxation year or fiscal period, as the case may be, if that amount

(a) was applied, because of section 1029.8.36.18 or 1029.8.36.18.2, in reduction of the expenditure referred to in section 1029.8.36.5 or of the share of the qualified corporation that is a member of the qualified partnership of the expenditure referred to in section 1029.8.36.6;

(b) was not received by the qualified corporation, the qualified partnership, the qualified corporation that is a member of the qualified partnership, the person or the partnership; and

(c) ceased, in the taxation year, the fiscal period or the taxation year in which the fiscal period of the partnership ends, to be an amount that the qualified corporation, the qualified partnership, the qualified corporation that is a member of the qualified partnership, the person or the partnership, as the case may be, can reasonably expect to receive.”

**148.** (1) Section 1029.8.36.27 of the Act is repealed.

(2) Subsection 1 has effect from 22 April 2005.

**149.** (1) Section 1029.8.36.28 of the Act is amended by replacing “1029.8.36.5 to 1029.8.36.7” by “1029.8.36.5 to 1029.8.36.7.1”.

(2) Subsection 1 has effect from 22 April 2005.

**150.** (1) Section 1029.8.36.59.21 of the Act, enacted by section 244 of chapter 1 of the statutes of 2005, is amended, in the definition of “eligible region” in the first paragraph,

(1) by striking out subparagraph ii of paragraph *b*;

(2) by adding the following paragraph after paragraph *b*:

“(c) the urban agglomeration of La Tuque, as described in section 8 of the Act respecting the exercise of certain municipal powers in certain urban agglomerations (chapter E-20.001);”.

(2) Subsection 1 has effect from 26 March 2003. However, when paragraph *c* of the definition of “eligible region” in the first paragraph of section 1029.8.36.59.21 of the Act applies before 1 January 2006, it reads as follows:

“(c) Ville de La Tuque;”.

**151.** (1) Section 1029.8.36.72.1 of the Act, amended by section 256 of chapter 38 of the statutes of 2005, is again amended, in paragraph *c* of the definition of “qualified corporation” in the first paragraph,

(1) by replacing the portion before subparagraph iii by the following:

“(c) a corporation control of which is acquired at any time in the calendar year or a preceding calendar year, but after 11 June 2003, by a person or group of persons, unless the acquisition of control

i. occurs before 1 July 2004 and the Minister of Economic Development, Innovation and Export Trade certifies that it results from a transaction that was sufficiently advanced on 11 June 2003 and was binding on the parties on that date,

ii. is by a corporation carrying on at that time a recognized business, by a person or group of persons that controls such a corporation, or by a group of persons each member of which is such a corporation or a person who, alone or together with other members of the group, controls such a corporation;”;

(2) by adding the following subparagraph after subparagraph iii:

“iv. derives from the performance after 11 June 2003 of one or more obligations described in the third paragraph of section 21.3.5 that were contracted before 12 June 2003;”.

(2) Subsection 1 has effect from 12 June 2003. However, when subparagraph i of paragraph *c* of the definition of “qualified corporation” in the first paragraph of section 1029.8.36.72.1 of the Act applies

(1) between 22 March 2004 and 18 February 2005, it reads as if “Minister of Economic Development, Innovation and Export Trade” was replaced by “Minister of Economic and Regional Development and Research”; and

(2) before 23 March 2004, it reads as if “Minister of Economic Development, Innovation and Export Trade” was replaced by “Minister of Economic and Regional Development”.

**152.** The heading of subdivision 3 of Division II.6.6.1 of Chapter III.1 of Title III of Book IX of Part I of the Act is replaced by the following heading:

*“§3. — Government assistance, non-government assistance, contract payments and other particulars”.*

**153.** (1) Section 1029.8.36.72.7 of the Act is amended

(1) by replacing subparagraph i of paragraph *a* by the following subparagraph:

“i. by the amount of any contract payment, government assistance or non-government assistance attributable to the salaries or wages that the qualified corporation or the corporation associated with it, as the case may be, has received, is entitled to receive or may reasonably expect to receive, on or before its filing-due date for its taxation year, except any amount of government assistance that is an amount that the qualified corporation or the corporation associated with it, as the case may be, is deemed to have paid to the Minister under this chapter for any taxation year,”;

(2) by inserting “, other than those referred to in subparagraph ii,” after “salaries or wages” in subparagraph iii of paragraph *a*;

(3) by replacing subparagraph i of paragraph *b* by the following subparagraph:

“i. by the amount of any contract payment, government assistance or non-government assistance attributable to the salaries or wages that the particular qualified corporation has received, is entitled to receive or may reasonably expect to receive, on or before its filing-due date for its taxation year, except any amount of government assistance that is an amount that the particular qualified corporation is deemed to have paid to the Minister under this chapter for any taxation year,”;

(4) by inserting “, other than those referred to in subparagraph ii,” after “salaries or wages” in subparagraph iii of paragraph *b*.

(2) Subsection 1 has effect from 1 January 2004.

**154.** (1) Section 1029.8.36.72.29 of the Act, amended by section 262 of chapter 38 of the statutes of 2005, is again amended, in paragraph *c* of the definition of “qualified corporation” in the first paragraph,

(1) by replacing the portion before subparagraph iii by the following:

“(c) a corporation control of which is acquired at any time in the calendar year or a preceding calendar year, but after 11 June 2003, by a person or group of persons, unless the acquisition of control

i. occurs before 1 July 2004 and Investissement Québec certifies that it results from a transaction that was sufficiently advanced on 11 June 2003 and was binding on the parties on that date,



ii. is by a corporation carrying on at that time a recognized business, by a person or group of persons that controls such a corporation or by a group of persons each member of which is such a corporation or a person who, alone or together with other members of the group, controls such a corporation;”;

(2) by adding the following subparagraph after subparagraph iii:

“iv. derives from the performance after 11 June 2003 of one or more obligations described in the third paragraph of section 21.3.5 that were contracted before 12 June 2003;”.

(2) Subsection 1 has effect from 12 June 2003.

**155.** The heading of subdivision 3 of Division II.6.6.3 of Chapter III.1 of Title III of Book IX of Part I of the Act is replaced by the following heading:

“§3. — *Government assistance, non-government assistance, contract payments and other particulars*”.

**156.** (1) Section 1029.8.36.72.35 of the Act is amended

(1) by replacing subparagraph i of paragraph *a* by the following subparagraph:

“i. by the amount of any contract payment, government assistance or non-government assistance attributable to the salaries or wages that the qualified corporation or the corporation associated with it, as the case may be, has received, is entitled to receive or may reasonably expect to receive, on or before its filing-due date for its taxation year, except any amount of government assistance that is an amount that the qualified corporation or the corporation associated with it, as the case may be, is deemed to have paid to the Minister under this chapter for any taxation year;”;

(2) by inserting “, other than those referred to in subparagraph ii,” after “salaries or wages” in subparagraph iii of paragraph *a*;

(3) by replacing subparagraph i of paragraph *b* by the following subparagraph:

“i. by the amount of any contract payment, government assistance or non-government assistance attributable to the salaries or wages that the particular qualified corporation has received, is entitled to receive or may reasonably expect to receive, on or before its filing-due date for its taxation year, except any amount of government assistance that is an amount that the particular qualified corporation is deemed to have paid to the Minister under this chapter for any taxation year;”;

(4) by inserting “, other than those referred to in subparagraph ii,” after “salaries or wages” in subparagraph iii of paragraph *b*.



(2) Subsection 1 has effect from 1 January 2004.

**157.** (1) Section 1029.8.36.72.56 of the Act, amended by section 195 of chapter 23 of the statutes of 2005, is again amended, in paragraph *c* of the definition of “qualified corporation” in the first paragraph,

(1) by replacing the portion before subparagraph ii by the following:

“(c) a corporation control of which is acquired at any time in the calendar year or a preceding calendar year, but after 11 June 2003, by a person or group of persons, unless the acquisition of control

i. occurs before 1 July 2004 and Investissement Québec certifies that it results from a transaction that was sufficiently advanced on 11 June 2003 and was binding on the parties on that date,”;

(2) by replacing subparagraphs 1 and 2 of subparagraph ii by the following subparagraphs:

“(1) in relation to a corporation carrying on at that time a recognized business described in paragraph *a* of the definition of “recognized business”, a person that is a corporation carrying on at that time such a recognized business, a person or group of persons that controls such a corporation, or a group of persons each member of which is such a corporation or a person who, alone or together with other members of the group, controls such a corporation, or

“(2) in relation to a corporation carrying on at that time a recognized business described in paragraph *b* of the definition of “recognized business”, a person that is a corporation carrying on at that time such a recognized business, a person or group of persons that controls such a corporation, or a group of persons each member of which is such a corporation or a person who, alone or together with other members of the group, controls such a corporation,”;

(3) by adding the following subparagraph after subparagraph iii:

“iv. derives from the performance after 11 June 2003 of one or more obligations described in the third paragraph of section 21.3.5 that were contracted before 12 June 2003;”.

(2) Subsection 1 has effect from 12 June 2003.

**158.** The heading of subdivision 3 of Division II.6.6.5 of Chapter III.1 of Title III of Book IX of Part I of the Act is replaced by the following heading:

“§3. — *Government assistance, non-government assistance, contract payments and other particulars*”.

**159.** (1) Section 1029.8.36.72.62 of the Act is amended, in the first paragraph,

(1) by replacing subparagraph i of subparagraph *a* by the following subparagraph:

“i. by the amount of any contract payment, government assistance or non-government assistance attributable to the salaries or wages that the qualified corporation or the corporation associated with it, as the case may be, has received, is entitled to receive or may reasonably expect to receive, on or before its filing-due date for its taxation year, except any amount of government assistance that is an amount that the qualified corporation or the corporation associated with it, as the case may be, is deemed to have paid to the Minister under this chapter for any taxation year,”;

(2) by inserting “, other than those referred to in subparagraph ii,” after “salaries or wages” in subparagraph iii of subparagraph *a*;

(3) by replacing subparagraph i of subparagraph *b* by the following subparagraph:

“i. by the amount of any contract payment, government assistance or non-government assistance attributable to the salaries or wages that the particular qualified corporation has received, is entitled to receive or may reasonably expect to receive, on or before its filing-due date for its taxation year, except any amount of government assistance that is an amount that the particular qualified corporation is deemed to have paid to the Minister under this chapter for any taxation year,”;

(4) by inserting “, other than those referred to in subparagraph ii,” after “salaries or wages” in subparagraph iii of subparagraph *b*.

(2) Subsection 1 has effect from 1 January 2004.

**160.** (1) Section 1029.8.36.72.82.1 of the Act, amended by section 199 of chapter 23 of the statutes of 2005, is again amended

(1) by replacing the definition of “eligibility period” in the first paragraph by the following definition:

““eligibility period” of a corporation means, subject to the third paragraph, the period that begins on 1 January of the first calendar year, preceding the calendar year 2008, that is referred to in the first unrevoked qualification certificate issued to the corporation or deemed obtained by it, in relation to a recognized business, for the purposes of this division or any of Divisions II.6.6.2, II.6.6.4 and II.6.6.6, and that ends on 31 December 2009;”;

(2) by inserting “, subject to the fourth paragraph,” after “means” in the definition of “base period” in the first paragraph;

(3) by striking out the third paragraph;

(4) by inserting the following paragraph after the fourth paragraph:

“Where a corporation that carries on a recognized business for the purposes of this division has had Investissement Québec revoke a qualification certificate it was issued in relation to the calendar year 2000 or 2001, in respect of another recognized business the corporation was carrying on for the purposes of any of Divisions II.6.6.2, II.6.6.4 and II.6.6.6, in this paragraph referred to as the “initial qualification certificate”, the corporation may elect, for the purpose of determining the amount it is deemed to have paid to the Minister for the purposes of this division for the taxation year in which ends a calendar year in respect of which it is issued a new qualification certificate by Investissement Québec, in relation to that other recognized business, to have its base period be the base period that would have been determined if the initial qualification certificate had not been so revoked.”

(2) Paragraph 1 of subsection 1 has effect from 1 January 2005.

(3) Paragraphs 2 and 4 of subsection 1 apply to a corporation in respect of which a qualification certificate is issued, in relation to a recognized business it carries on, for a calendar year after the calendar year 2002.

(4) Paragraph 3 of subsection 1 applies in respect of the continuation of a business that occurs after 31 December 2004.

**161.** The heading of subdivision 3 of Division II.6.6.6.1 of Chapter III.1 of Title III of Book IX of Part I of the Act is replaced by the following heading:

*“§3. — Government assistance, non-government assistance, contract payments and other particulars”.*

**162.** (1) Section 1029.8.36.72.82.6 of the Act, amended by section 205 of chapter 23 of the statutes of 2005, is again amended, in the first paragraph,

(1) by replacing subparagraph i of subparagraph *a* by the following subparagraph:

“i. by the amount of any contract payment, government assistance or non-government assistance attributable to the salaries or wages that the qualified corporation or the corporation associated with it, as the case may be, has received, is entitled to receive or may reasonably expect to receive, on or before its filing-due date for its taxation year, except any amount of government assistance that is an amount that the qualified corporation or the corporation associated with it, as the case may be, is deemed to have paid to the Minister under this chapter for any taxation year,”;

(2) by inserting “, other than those referred to in subparagraph ii,” after “salaries or wages” in subparagraph iii of subparagraph *a*;

(3) by replacing subparagraph i of subparagraph *b* by the following subparagraph:

“i. by the amount of any contract payment, government assistance or non-government assistance attributable to the salaries or wages that the particular qualified corporation has received, is entitled to receive or may reasonably expect to receive, on or before its filing-due date for its taxation year, except any amount of government assistance that is an amount that the particular qualified corporation is deemed to have paid to the Minister under this chapter for any taxation year,”;

(4) by inserting “, other than those referred to in subparagraph ii,” after “salaries or wages” in subparagraph iii of subparagraph *b*.

(2) Subsection 1 has effect from 1 January 2004.

**163.** (1) Section 1029.8.36.72.82.13 of the Act, enacted by section 210 of chapter 23 of the statutes of 2005, is amended by replacing the definition of “eligibility period” in the first paragraph by the following definition:

““eligibility period” of a corporation means, subject to the third and fourth paragraphs, the period that begins on 1 January of the first calendar year, preceding the calendar year 2008, that is referred to in the first unrevoked qualification certificate issued to the corporation or deemed obtained by it, in relation to a recognized business, for the purposes of this division, and that ends on 31 December 2009;”.

(2) Subsection 1 has effect from 1 January 2005.

**164.** The heading of subdivision 3 of Division II.6.6.6.2 of Chapter III.1 of Title III of Book IX of Part I of the Act, enacted by section 210 of chapter 23 of the statutes of 2005, is replaced by the following heading:

“§3. — *Government assistance, non-government assistance, contract payments and other particulars*”.

**165.** (1) Section 1029.8.36.72.82.18 of the Act, enacted by section 210 of chapter 23 of the statutes of 2005, is amended, in the first paragraph,

(1) by replacing subparagraph i of subparagraph *a* by the following subparagraph:

“i. by the amount of any contract payment, government assistance or non-government assistance attributable to the salaries or wages that the qualified corporation or the corporation associated with it, as the case may be, has received, is entitled to receive or may reasonably expect to receive, on or before its filing-due date for its taxation year, except any amount of government assistance that is an amount that the qualified corporation or the corporation associated with it, as the case may be, is deemed to have paid to the Minister under this chapter for any taxation year,”;

(2) by inserting “, other than those referred to in subparagraph ii,” after “salaries or wages” in subparagraph iii of subparagraph *a*;

(3) by replacing subparagraph i of subparagraph *b* by the following subparagraph:

“i. by the amount of any contract payment, government assistance or non-government assistance attributable to the salaries or wages that the particular qualified corporation has received, is entitled to receive or may reasonably expect to receive, on or before its filing-due date for its taxation year, except any amount of government assistance that is an amount that the particular qualified corporation is deemed to have paid to the Minister under this chapter for any taxation year,”;

(4) by inserting “, other than those referred to in subparagraph ii,” after “salaries or wages” in subparagraph iii of subparagraph *b*.

(2) Subsection 1 has effect from 1 January 2004.

**166.** (1) Section 1029.8.36.72.83 of the Act, amended by section 211 of chapter 23 of the statutes of 2005, is again amended, in paragraph *c* of the definition of “qualified corporation” in the first paragraph,

(1) by replacing the portion before subparagraph iii by the following:

“(c) a corporation control of which is acquired at any time in the calendar year or a preceding calendar year, but after 11 June 2003, by a person or group of persons, unless the acquisition of control

i. occurs before 1 July 2004 and Investissement Québec certifies that it results from a transaction that was sufficiently advanced on 11 June 2003 and was binding on the parties on that date,

ii. is by a corporation carrying on at that time a recognized business, by a person or group of persons that controls such a corporation, or by a group of persons each member of which is such a corporation or a person who, alone or together with other members of the group, controls such a corporation,”;

(2) by adding the following subparagraph after subparagraph iii:

“iv. derives from the performance after 11 June 2003 of one or more obligations described in the third paragraph of section 21.3.5 that were contracted before 12 June 2003,”.

(2) Subsection 1 has effect from 12 June 2003.

**167.** The heading of subdivision 3 of Division II.6.6.7 of Chapter III.1 of Title III of Book IX of Part I of the Act is replaced by the following heading:

“§3. — *Government assistance, non-government assistance, contract payments and other particulars*”.

**168.** (1) Section 1029.8.36.72.88 of the Act is amended, in the first paragraph,

(1) by replacing subparagraph i of subparagraph *a* by the following subparagraph:

“i. by the amount of any contract payment, government assistance or non-government assistance attributable to the salaries or wages that the qualified corporation or the corporation associated with it, as the case may be, has received, is entitled to receive or may reasonably expect to receive, on or before its filing-due date for its taxation year, except any amount of government assistance that is an amount that the qualified corporation or the corporation associated with it, as the case may be, is deemed to have paid to the Minister under this chapter for any taxation year.”;

(2) by inserting “, other than those referred to in subparagraph ii,” after “salaries or wages” in subparagraph iii of subparagraph *a*;

(3) by replacing subparagraph i of subparagraph *b* by the following subparagraph:

“i. by the amount of any contract payment, government assistance or non-government assistance attributable to the salaries or wages that the particular qualified corporation has received, is entitled to receive or may reasonably expect to receive, on or before its filing-due date for its taxation year, except any amount of government assistance that is an amount that the particular qualified corporation is deemed to have paid to the Minister under this chapter for any taxation year.”;

(4) by inserting “, other than those referred to in subparagraph ii,” after “salaries or wages” in subparagraph iii of subparagraph *b*.

(2) Subsection 1 has effect from 1 January 2004.

**169.** (1) Section 1029.8.36.95 of the Act, amended by section 215 of chapter 23 of the statutes of 2005, is again amended by replacing paragraph *b* of the definition of “qualified corporation” in the first paragraph by the following paragraph:

“(b) a portfolio management corporation exempt from registration as an adviser under section 194.2 of the Securities Regulation made by Order in Council 660-83 (1983, G.O. 2, 1269);”.

(2) Subsection 1 has effect from 14 September 2005.

**170.** (1) Section 1029.8.36.147 of the Act, amended by section 221 of chapter 23 of the statutes of 2005, is again amended by replacing subparagraph ii of subparagraph *a* of the third paragraph by the following subparagraph:

“ii. a corporation that is exempt from registration as a dealer or an adviser with the Autorité des marchés financiers under Title V of the Securities Act, any of sections 2.1, 2.2, 2.9, 2.10, 2.11, 2.16, 2.18, 2.31, 2.33, 2.42, 3.1 and 3.4 of Regulation 45-106 respecting prospectus and registration exemptions, approved by ministerial order 2005-20 (2005, G.O. 2, 3664), or section 194.1 or 194.2 of the Securities Regulation made by Order in Council 660-83 (1983, G.O. 2, 1269); or”.

(2) Subsection 1 has effect from 14 September 2005.

**171.** (1) Section 1029.8.61.1 of the Act, amended by section 253 of chapter 1 of the statutes of 2005 and by section 279 of chapter 38 of the statutes of 2005, is again amended

(1) by replacing the portion of the definition of “eligible expense” in the first paragraph before paragraph *a* by the following:

““eligible expense” made by an eligible individual in a taxation year means, subject to section 1029.8.61.2, the portion of an amount that the authorized manager pays in the year on behalf of the eligible individual, by way of the authorized payment arrangement, that may reasonably be attributed to an eligible service rendered or to be rendered in respect of the eligible individual after the eligible individual has attained the age of 70 years and in respect of which the eligible individual transmits a payment order to the authorized manager, or to an eligible service rendered in respect of the eligible individual before the eligible individual’s death but after the eligible individual attained the age of 70 years and in respect of which the eligible individual’s legal representative transmits a payment order to the authorized manager, and that corresponds”;

(2) by replacing the definitions of “authorized payment arrangement” and “payment order” in the first paragraph by the following definitions:

““authorized payment arrangement” means the arrangement between the authorized manager and an eligible individual under which the authorized manager, for the purpose of executing a payment order, withdraws from the bank account of the eligible individual or, if the eligible individual is deceased and the payment order has been transmitted by the eligible individual’s legal representative, from the bank account designated by the legal representative, the amounts required to pay, on behalf of the eligible individual, the aggregate of the amounts included in an eligible expense of the eligible individual in respect of an eligible service, determined with reference, where applicable, to the amount that the authorized manager pays under section 1029.8.61.6 at the time the authorized manager pays those amounts;

““payment order” means a payment instruction transmitted by an eligible individual or, if the eligible individual is deceased and was registered immediately before death with the authorized manager, by the eligible individual’s legal representative to the authorized manager and on which is shown the amount of the salary or wages of one of the eligible individual’s employees in respect of an eligible service or the amount that is the cost of an eligible service, including, where applicable, the goods and services tax or the Québec sales tax in respect of the service;”;

(3) by replacing “or land on which the self-contained domestic establishment is situated, or a room described in section 1029.8.61.1.1” in paragraph *b* of the definition of “eligible service” in the first paragraph by “a room described in section 1029.8.61.1.1, or land on which the self-contained domestic establishment or the room is situated”;

(4) by adding the following subparagraph after subparagraph *c* of the second paragraph:

“(d) the amount of an expenditure in respect of an eligible service paid by the authorized manager on behalf of a deceased individual is deemed to have been paid in the taxation year in which the individual died.”

(2) Paragraphs 1, 2 and 4 of subsection 1 apply in respect of a death that occurs after 31 August 2005.

(3) Paragraph 3 of subsection 1 applies in respect of an eligible expense made after 29 June 2000.

**172.** (1) Section 1029.8.61.6 of the Act is amended

(1) by inserting “or to the eligible individual’s legal representative” after “to the eligible individual” in the first paragraph;

(2) by inserting “or to the eligible individual’s legal representative” after “to the eligible individual” in the second paragraph.

(2) Subsection 1 applies in respect of a death that occurs after 31 August 2005.

**173.** The heading of subdivision 1 of Division II.11.2 of Chapter III.1 of Title III of Book IX of Part I of the Act, enacted by section 257 of chapter 1 of the statutes of 2005, is replaced by the following heading:

“§1. — *Interpretation and general*”.

**174.** (1) Section 1029.8.61.8 of the Act, enacted by section 257 of chapter 1 of the statutes of 2005, is amended

(1) by replacing paragraph *b* of the definition of “eligible individual” by the following paragraph:



“(b) is the father or mother of the eligible dependent child;”;

(2) by replacing “at the end of the base year” in the definition of “family income” by “at the beginning of the particular month”.

(2) Subsection 1 applies from the taxation year 2007.

**175.** (1) Section 1029.8.61.10 of the Act, enacted by section 257 of chapter 1 of the statutes of 2005, is repealed.

(2) Subsection 1 applies from the taxation year 2007.

**176.** (1) Section 1029.8.61.11 of the Act, enacted by section 257 of chapter 1 of the statutes of 2005, is replaced by the following section:

**“1029.8.61.11.** If, at the beginning of a particular month, a person has a bond of filiation with an eligible dependent child with whom the person resides, other than a child who is the subject of shared custody at the beginning of the particular month, the person is deemed to fulfill the responsibility for the care and upbringing of the eligible dependent child at the beginning of the particular month, unless the person is the child’s biological mother and, at the beginning of the particular month, has not reached 18 years of age and does not have a cohabiting spouse.

For the purposes of the first paragraph, an eligible dependent child who is the subject of shared custody at the beginning of a particular month means

(a) a child whose custody is shared between persons with whom the child has a bond of filiation, and in respect of whom each of those persons assumes at least 40% of custody time during the particular month; or

(b) a child whose custody is shared between a person with whom the child does not have a bond of filiation and a person with whom the child has such a bond, if the latter person assumes less than 50% of custody time during the particular month.

If a person is deemed, under the first paragraph, to fulfill the responsibility for the care and upbringing of an eligible dependent child at the beginning of a particular month, no person other than a person referred to in the first paragraph may be considered to be fulfilling that responsibility in respect of that child at the beginning of the particular month.”

(2) Subsection 1 applies from the taxation year 2007.

**177.** (1) The Act is amended by inserting the following sections after section 1029.8.61.11, enacted by section 257 of chapter 1 of the statutes of 2005:

**“1029.8.61.11.1.** If, at the beginning of a particular month, persons have a bond of filiation with an eligible dependent child who is the subject of shared custody and in respect of whom each of those persons assumes at least 40% of custody time during the particular month, each of those persons is deemed to fulfill the responsibility for the care and upbringing of that child at the beginning of the particular month.

If persons are deemed, under the first paragraph, to fulfill the responsibility for the care and upbringing of an eligible dependent child at the beginning of a particular month, no person other than persons referred to in the first paragraph may be considered to be fulfilling that responsibility in respect of that child at the beginning of the particular month.

**“1029.8.61.11.2.** If, at the beginning of a particular month, a person has a bond of filiation with an eligible dependent child who is the subject of shared custody and in respect of whom the person does not assume at least 40% of custody time during the particular month, that person and, where applicable, the person’s cohabiting spouse at the beginning of the particular month, are deemed not to be residing with that child at the beginning of the particular month.”

(2) Subsection 1 applies from the taxation year 2007.

**178.** (1) Section 1029.8.61.12 of the Act, enacted by section 257 of chapter 1 of the statutes of 2005, is amended by striking out “primarily” in the portion before paragraph *a*.

(2) Subsection 1 applies from the taxation year 2007.

**179.** (1) The Act is amended by inserting the following sections after section 1029.8.61.12, enacted by section 257 of chapter 1 of the statutes of 2005:

**“1029.8.61.12.1.** If, at the beginning of a particular month and as a consequence of the application of section 1029.8.61.12, persons who are not married to each other or who, though married, do not live together, fulfill the responsibility for the care and upbringing of an eligible dependent child, that responsibility is deemed to be fulfilled by the person who primarily fulfills, at the beginning of the particular month, that responsibility and, where applicable, by the person who has a bond of filiation with that child and assumes at least 40% of custody time in respect of the child during the particular month.

**“1029.8.61.12.2.** If, at the beginning of a particular month and as a consequence of the application of section 1029.8.61.12, responsibility for the care and upbringing of an eligible dependent child is shared equally between persons who are not married to each other or who, though married, do not live together, those persons must agree in determining which one of them is deemed to fulfill that responsibility at the beginning of the particular month, unless one of those persons has a bond of filiation with the child and assumes

at least 40% of custody time in respect of the child, in which case each of those persons is deemed to fulfill that responsibility.

If the persons referred to in the first paragraph cannot agree, the Board shall determine which of them is deemed to fulfill the responsibility for the care and upbringing of the eligible dependent child at the beginning of the particular month.

**“1029.8.61.12.3.** For the purposes of sections 1029.8.61.12.1 and 1029.8.61.12.2, two married persons are considered not to be living together at any time if, at that time, they have been living separate and apart, because of a breakdown of their marriage, for a period of at least 90 days that includes that time.”

(2) Subsection 1 applies from the taxation year 2007.

**180.** (1) Sections 1029.8.61.14 to 1029.8.61.16 of the Act, enacted by section 257 of chapter 1 of the statutes of 2005, are repealed.

(2) Subsection 1 applies from the taxation year 2007.

**181.** (1) Section 1029.8.61.18 of the Act, enacted by section 257 of chapter 1 of the statutes of 2005 and amended by section 281 of chapter 38 of the statutes of 2005, is again amended

(1) by replacing the portion before the formula in the first paragraph by the following:

**“1029.8.61.18.** Where an individual and, where applicable, the individual’s cohabiting spouse at the beginning of a particular month included in a taxation year file the document referred to in section 1029.8.61.23 for the base year in relation to the particular month, an amount equal to the amount determined by the following formula is deemed, for the particular month, to be an overpayment of the tax payable by the individual under this Part, in this division referred to as the “child assistance payment”.”;

(2) by replacing subparagraphs i and ii of subparagraph *d* of the third paragraph by the following subparagraphs:

“i. if the individual has a cohabiting spouse at the beginning of the particular month, the amount determined under the first paragraph of section 1029.8.61.22 that is applicable, for the particular month, in respect of such an individual, and

“ii. if the individual has no cohabiting spouse at the beginning of the particular month, the amount determined under the second paragraph of section 1029.8.61.22 that is applicable, for the particular month, in respect of such an individual;”;

(3) by adding the following paragraph after the fourth paragraph:

“The individual who, at the beginning of a particular month, is an eligible individual in respect of an eligible dependent child, or, where applicable, the individual’s cohabiting spouse at the beginning of the particular month, shall, for this section to apply to the individual, fulfill the responsibility for the care and upbringing of the eligible dependent child.”

(2) Paragraphs 1 and 3 of subsection 1 apply from the taxation year 2007.

(3) Paragraph 2 of subsection 1 applies from the taxation year 2006.

**182.** (1) The Act is amended by inserting the following sections after section 1029.8.61.18, enacted by section 257 of chapter 1 of the statutes of 2005:

**“1029.8.61.18.1.** If, for a particular month included in a taxation year, two individuals, who are mutually cohabiting spouses at the beginning of the particular month, would, but for this section, be entitled to receive an amount in respect of a child assistance payment under section 1029.8.61.18, only the individual described in the second paragraph is entitled to receive that amount for the particular month.

The individual to which the first paragraph refers is

(a) in the case of an initial application filed by a family, other than a blended family,

i. the biological mother of the eligible dependent child if the application is deemed, in accordance with section 1029.8.61.24, to have been filed, and

ii. the first of the individuals referred to in the first paragraph who files an application, other than the application referred to in subparagraph i, in respect of an eligible dependent child;

(b) in the case of an initial application filed by a blended family,

i. the individual who has a bond of filiation with the largest number of eligible dependent children named in the application, and

ii. if each of the cohabiting spouses has a bond of filiation with an equal number of eligible dependent children named in the application, the individual who has a bond of filiation with the youngest child or, if that child has a bond of filiation with each of the cohabiting spouses, the mother; and

(c) in the case of a second application and of any subsequent application filed by a family, the individual who receives, at the time of the application, an amount in respect of a child assistance payment.

For the purposes of subparagraphs *b* and *c* of the second paragraph, a blended family means two single-parent families that combine to form a new family.

**“1029.8.61.18.2.** If, at the beginning of a particular month, individuals, who are not mutually cohabiting spouses, are eligible individuals in respect of the same eligible dependent child, in this section referred to as the “child concerned”, and each of them is deemed to fulfill, at the beginning of the particular month, the responsibility for the care and upbringing of the child concerned under any of sections 1029.8.61.11.1, 1029.8.61.12.1 and 1029.8.61.12.2, the amount determined in respect of each individual for the particular month under section 1029.8.61.18 is to be replaced by an amount equal to the aggregate of

(a) the amount that would be determined in respect of the individual, for the particular month, under section 1029.8.61.18 if the individual was not, at the beginning of the particular month, an eligible individual in respect of each child concerned; and

(b) the amount that is equal to 50% of the amount by which the amount determined in respect of the individual for the particular month under section 1029.8.61.18 exceeds the amount determined under paragraph *a* in respect of the individual.

**“1029.8.61.18.3.** An eligible individual, in respect of an eligible dependent child, may, at any time, waive entitlement to receive an amount in respect of a child assistance payment in favour of another eligible individual, in respect of the eligible dependent child, who is the eligible individual’s cohabiting spouse, provided the Board is so notified.

The waiver takes effect from the date, subsequent to the date of the notice to the Board, on which an amount is paid in respect of a child assistance payment.

**“1029.8.61.18.4.** The Board may, in exceptional circumstances and if it is convinced that it is in the family’s interest, pay an amount in respect of a child assistance payment that an eligible individual in respect of an eligible dependent child is entitled to receive to the eligible individual’s cohabiting spouse if that spouse is also an eligible individual in respect of the eligible dependent child.”

(2) Subsection 1 applies from the taxation year 2007.

**183.** (1) Section 1029.8.61.19 of the Act, enacted by section 257 of chapter 1 of the statutes of 2005, is amended

(1) by inserting the following paragraph after the second paragraph:

“There is an exemption from filing a new application and from filing a new expert’s report for the purpose of considering an amount in respect of the supplement for handicapped children under subparagraph *b* of the second paragraph of section 1029.8.61.18, where an individual becomes an eligible individual, in respect of an eligible child who already gives rise to entitlement to an amount in respect of the supplement for handicapped children and in respect of whom the individual has filed or is deemed to have filed an application under the first paragraph of section 1029.8.61.24.”;

(2) by adding the following paragraphs after the third paragraph:

“The Board may, at any time, require that the child’s condition be reassessed.

Despite the first paragraph, the child is not considered to be an eligible dependent child to whom subparagraph *b* of the second paragraph of section 1029.8.61.18 refers if

(*a*) without a valid reason, the treatments or measures likely to improve the child’s condition are not applied or continued; or

(*b*) there is refusal or omission to comply with a request for information or an examination to assess the child’s condition.”

(2) Subsection 1 has effect from 28 December 2005.

**184.** (1) Section 1029.8.61.22 of the Act, enacted by section 257 of chapter 1 of the statutes of 2005, is replaced by the following section:

**“1029.8.61.22.** The amount to which subparagraph *i* of subparagraph *d* of the third paragraph of section 1029.8.61.18 refers is the amount, in section 1029.8.61.22.1 referred to as the “child assistance payment reduction threshold”, applicable for a particular month included in a taxation year, that is equal to the amount starting at which the total income of an eligible individual for the year who has an eligible spouse for the year, and whose work income for the year is at least equal to the work premium reduction threshold referred to in subparagraph *ii* of subparagraph *b* of the second paragraph of section 1029.8.116.5 that is applicable for the year, causes the eligible individual to be deemed to have paid to the Minister an amount equal to zero on account of the eligible individual’s tax payable for the year under the first paragraph of section 1029.8.116.5.

The amount to which subparagraph *ii* of subparagraph *d* of the third paragraph of section 1029.8.61.18 refers is the amount, in section 1029.8.61.22.1 referred to as the “child assistance payment reduction threshold”, applicable for a particular month included in a taxation year, that is equal to the amount starting at which the total income of an eligible individual for the year who does not have an eligible spouse for the year, and whose work income for the year is at least equal to the work premium reduction threshold referred to in subparagraph *i* of subparagraph *b* of the

second paragraph of section 1029.8.116.5 that is applicable for the year, causes the eligible individual to be deemed to have paid to the Minister an amount equal to zero on account of the eligible individual's tax payable for the year under the first paragraph of section 1029.8.116.5.

In this section, “eligible individual”, “eligible spouse”, “total income” and “work income” have the meaning assigned by section 1029.8.116.1.”

(2) Subsection 1 applies from the taxation year 2006. However, when the first and second paragraphs of section 1029.8.61.22 of the Act apply to the taxation year 2006, they read as follows:

**“1029.8.61.22.** The amount to which subparagraph i of subparagraph *d* of the third paragraph of section 1029.8.61.18 refers is the amount, applicable for a particular month included in a taxation year, that is equal to the amount starting at which the total income of an eligible individual for the year who has an eligible spouse for the year, and whose work income for the year is at least equal to \$14,884, causes the eligible individual to be deemed to have paid to the Minister an amount equal to zero on account of the eligible individual's tax payable for the year under the first paragraph of section 1029.8.116.5.

The amount to which subparagraph ii of subparagraph *d* of the third paragraph of section 1029.8.61.18 refers is the amount, applicable for a particular month included in a taxation year, that is equal to the amount starting at which the total income of an eligible individual for the year who does not have an eligible spouse for the year, and whose work income for the year is at least equal to \$9,720, causes the eligible individual to be deemed to have paid to the Minister an amount equal to zero on account of the eligible individual's tax payable for the year under the first paragraph of section 1029.8.116.5.”

**185.** (1) The Act is amended by inserting the following section after section 1029.8.61.22, enacted by section 257 of chapter 1 of the statutes of 2005:

**“1029.8.61.22.1.** The Minister of Finance publishes annually in the *Gazette officielle du Québec* a notice setting out the amounts of the child assistance payment reduction thresholds that are determined for a taxation year in accordance with the first and second paragraphs of section 1029.8.61.22.

The notice described in the first paragraph becomes effective from 1 January of the year for which the amounts of the child assistance payment reduction thresholds are determined and may be subject to a review having retroactive effect to that date.”

(2) Subsection 1 applies from the taxation year 2007.

**186.** (1) Section 1029.8.61.25 of the Act, enacted by section 257 of chapter 1 of the statutes of 2005, is replaced by the following section:

**“1029.8.61.25.** An individual who receives an amount in respect of a child assistance payment and who ceases to be an eligible individual, in respect of an eligible dependent child, in a particular month, otherwise than because the child reaches 18 years of age, shall notify the Board thereof before the end of the first month that follows the particular month.”

(2) Subsection 1 applies from the taxation year 2007.

**187.** (1) The Act is amended by inserting the following section after section 1029.8.61.26, enacted by section 257 of chapter 1 of the statutes of 2005:

**“1029.8.61.26.1.** If a change in circumstances has the effect of increasing an amount in respect of a child assistance payment that an individual is entitled to receive, the amount is revised from the beginning of the particular month that follows the month in which the change in circumstances occurs, provided that the Board is notified of the change at or before the end of the eleventh month following the particular month or, if the Board is notified of the change after that time, from the beginning of the eleventh month that precedes the month in which the Board is notified of the change.”

(2) Subsection 1 applies from the taxation year 2007.

**188.** (1) Section 1029.8.61.27 of the Act, enacted by section 257 of chapter 1 of the statutes of 2005, is amended by replacing the first paragraph by the following paragraph:

**“1029.8.61.27.** The Board shall notify the eligible individual who is entitled to receive an amount in respect of a child assistance payment of the amount set for each 12-month period that begins on 1 July of each calendar year in respect of a child assistance payment.”

(2) Subsection 1 applies from the taxation year 2007.

**189.** (1) Section 1029.8.61.28 of the Act, enacted by section 257 of chapter 1 of the statutes of 2005, is amended by replacing the portion before subparagraph *a* of the first paragraph by the following:

**“1029.8.61.28.** The Board shall pay to an eligible individual who is entitled to receive an amount in respect of a child assistance payment, in respect of an eligible dependent child, in the first 15 days of January, April, July and October of a taxation year, the amounts determined, in respect of the eligible individual, in respect of a child assistance payment for each month in that year, according to the following terms and conditions:”

(2) Subsection 1 applies from the taxation year 2007.

**190.** (1) Section 1029.8.61.35 of the Act, enacted by section 257 of chapter 1 of the statutes of 2005, is replaced by the following section:



**“1029.8.61.35.** If, for a particular month, the Board has paid to an individual, as or on account of a child assistance payment, an amount to which the individual was not entitled and that individual is the cohabiting spouse of an eligible individual, in respect of the eligible dependent child in respect of whom the amount has been paid, who was entitled to receive that amount, the eligible individual and the eligible individual’s cohabiting spouse are solidarily liable in respect of the payment to the Board of that amount, to the extent that it may reasonably be considered that that amount relates to the application of section 1029.8.61.18 and that the individual was the eligible individual’s cohabiting spouse at the time the payment was made.”

(2) Subsection 1 applies from the taxation year 2007.

**191.** (1) Section 1029.8.61.51 of the Act, enacted by section 257 of chapter 1 of the statutes of 2005, is amended by replacing the second paragraph by the following paragraph:

“The Board may suspend the payment of an amount in respect of a child assistance payment until it has been provided with the required documents or information if the individual receiving the amount fails to provide the required documents or information before the expiry of 45 days after the date of the request.”

(2) Subsection 1 applies from the taxation year 2007.

**192.** Section 1029.8.70 of the Act is amended by replacing the portion of the second paragraph before subparagraph *a* in the French text by the following:

“Les montants auxquels le premier alinéa fait référence sont les suivants:”.

**193.** (1) Section 1029.8.116.5 of the Act, enacted by section 267 of chapter 1 of the statutes of 2005, is amended, in the second paragraph,

(1) by replacing subparagraphs *i* and *ii* of subparagraph *b* by the following subparagraphs:

“*i.* in the case where the eligible individual does not have an eligible spouse for the year, the amount by which the lesser of the work premium reduction threshold that is applicable for the year in respect of the eligible individual and the eligible individual’s work income for the year exceeds \$2,400, and

“*ii.* in the case where the eligible individual has an eligible spouse for the year, the amount by which the lesser of the work premium reduction threshold that is applicable for the year in respect of the eligible individual and the aggregate of the eligible individual’s work income for the year and the work income of the eligible individual’s eligible spouse for the year exceeds \$3,600; and”;

(2) by replacing subparagraphs i and ii of subparagraph *c* by the following subparagraphs:

“i. in the case where the eligible individual does not have an eligible spouse for the year, the work premium reduction threshold that is applicable for the year in respect of the eligible individual, and

“ii. in the case where the eligible individual has an eligible spouse for the year, the work premium reduction threshold that is applicable for the year in respect of the eligible individual.”

(2) Subsection 1 applies from the taxation year 2006. However,

(1) when subparagraphs i and ii of subparagraph *b* of the second paragraph of section 1029.8.116.5 of the Act apply to the taxation year 2006, they read as follows:

“i. in the case where the eligible individual does not have an eligible spouse for the year, the amount by which the lesser of \$9,720 and the eligible individual’s work income for the year exceeds \$2,400, and

“ii. in the case where the eligible individual has an eligible spouse for the year, the amount by which the lesser of \$14,884 and the aggregate of the eligible individual’s work income for the year and the work income of the eligible individual’s eligible spouse for the year exceeds \$3,600; and”; and

(2) when subparagraphs i and ii of subparagraph *c* of the second paragraph of section 1029.8.116.5 of the Act apply to the taxation year 2006, they read as follows:

“i. in the case where the eligible individual does not have an eligible spouse for the year, \$9,720, and

“ii. in the case where the eligible individual has an eligible spouse for the year, \$14,884.”

**194.** (1) The Act is amended by inserting the following section after section 1029.8.116.5, enacted by section 267 of chapter 1 of the statutes of 2005:

**“1029.8.116.5.1.** The Minister of Finance publishes annually in the *Gazette officielle du Québec* a notice setting out the amounts of the work premium reduction thresholds, referred to in subparagraphs i and ii of subparagraphs *b* and *c* of the second paragraph of section 1029.8.116.5 that are applicable for a taxation year and are determined according to the terms and conditions prescribed by regulation, that are to be used in determining the amount that an eligible individual is deemed to have paid to the Minister on account of the individual’s tax payable for the year under section 1029.8.116.5.

The notice described in the first paragraph becomes effective from 1 January of the year for which the amounts of the work premium reduction thresholds are determined and may be subject to a review having retroactive effect to that date.”

(2) Subsection 1 applies from the taxation year 2007.

**195.** (1) Sections 1029.8.116.6 and 1029.8.116.7 of the Act, enacted by section 267 of chapter 1 of the statutes of 2005, are repealed.

(2) Subsection 1 applies from the taxation year 2006.

**196.** (1) Section 1029.8.122 of the Act, enacted by section 269 of chapter 1 of the statutes of 2005, is amended, in the definition of “eligible region”,

(1) by striking out subparagraph ii of paragraph *b*;

(2) by adding the following paragraph after paragraph *b*:

“(c) the urban agglomeration of La Tuque, as described in section 8 of the Act respecting the exercise of certain municipal powers in certain urban agglomerations (chapter E-20.001);”.

(2) Subsection 1 has effect from 26 March 2003. However, when paragraph *c* of the definition of “eligible region” in section 1029.8.122 of the Act applies before 1 January 2006, it reads as follows:

“(c) Ville de La Tuque;”.

**197.** Section 1038.1 of the Act is amended by replacing “under section 28” by “under the first paragraph of section 28”.

**198.** (1) Section 1049 of the Act, amended by section 274 of chapter 1 of the statutes of 2005 and by section 292 of chapter 38 of the statutes of 2005, is again amended by replacing “I” in subparagraph ii of subparagraphs *a* and *b* of the first paragraph by “II”.

(2) Subsection 1 applies in respect of a taxation year that begins after 13 June 2006.

**199.** Section 1049.4.1 of the Act is amended by adding the following paragraph:

“The first paragraph does not apply where a particular share, or a share substituted therefor, that may be purchased or redeemed as a result of a transaction occurring, after 9 March 1999, during the 60 months following the acquisition of the particular share that forms part of a qualified investment, satisfies the conditions set out in subparagraphs 1 to 3 of the first paragraph of

section 21 of the Québec Business Investment Companies Regulation made by Order in Council 1627-85 (1985, G.O. 2, 3750).”

**200.** Section 1049.8 of the Act is amended by replacing “in the first paragraph of section 23 of the Québec Business Investment Companies Regulation made under section 16 of that Act” by “in section 23 of the Québec Business Investment Companies Regulation made by Order in Council 1627-85 (1985, G.O. 2, 3750)”.

**201.** Section 1049.11.1 of the Act is amended by replacing paragraphs *a* and *b* by the following paragraphs:

“(a) in the 12 months preceding the date of the qualified investment or in the months preceding that date in the case of a corporation that has been in operation for less than 12 months, not more than 50%, or a lower percentage determined by Investissement Québec under paragraph 3 of section 13.2 of the Act respecting Québec business investment companies, of the wages paid to its employees and of the wages paid to the employees of corporations with which it is associated, were paid to employees of an establishment situated in Québec; or

“(b) in the 12 months following the date of such an investment, not more than 50% of the wages paid to its employees and of the wages paid to the employees of corporations with which it is associated, were paid to employees of an establishment situated in Québec.”

**202.** (1) The Act is amended by inserting the following sections before section 1049.15:

**“1049.14.2.** If a corporation stipulates falsely, in its final prospectus relating to a share issue, that the issued shares may be included in an SME growth stock plan described in section 965.56, it incurs a penalty equal to 25% of the adjusted cost that would be determined under section 965.123 if the stipulation of the corporation were true, of each share of the issue distributed in Québec to an individual or to a qualified mutual fund.

If a corporation stipulates, in a final prospectus relating to a share issue, in respect of shares that may be included in an SME growth stock plan described in section 965.56, an adjusted cost other than that determined under section 965.123, it incurs a penalty equal to 25% of the amount by which the adjusted cost so stipulated in respect of each share of the public issue distributed in Québec to an individual or to a qualified mutual fund exceeds the adjusted cost determined under section 965.123 in respect of each such share.

**“1049.14.3.** If a corporation makes a public issue of shares with the stipulation that they can be included in an SME growth stock plan and if the shares are not listed on a Canadian stock exchange within 60 days of the date of the receipt for the final prospectus or of the exemption from filing a prospectus in respect of their issue, the corporation incurs a penalty equal to

25% of the adjusted cost, determined under section 965.123, of each share of the issue distributed in Québec to an individual or to a qualified mutual fund.

**“1049.14.4.** If a corporation issues, at a particular time, a share of its capital stock with the stipulation that it can be included in an SME growth stock plan or issues a share in replacement of a share issued at a particular time with such a stipulation or issued in replacement of a share issued in substitution for such a share and purchases or redeems in any manner whatever, directly or indirectly, in the year including the particular time but after that time or in the three years following that year, a share of a class of its capital stock other than a share described in section 965.106 or other than a share that has been the subject of a particular transaction referred to in section 965.113 in respect of which the corporation is not bound to meet the requirement set out in the second paragraph of section 965.105, it incurs a penalty equal to the amount determined under the second paragraph.

The amount of the penalty prescribed in the first paragraph in respect of a purchase or redemption is equal to the lesser of

(a) 25% of the amount obtained by multiplying the amount of the purchase or redemption by the proportion that the adjusted cost of the aggregate of the shares of the capital stock of the corporation that were issued, in the year of the purchase or redemption but before the time of the purchase or redemption or in the three years preceding that year, with the stipulation that they could be included in an SME growth stock plan, and distributed in Québec and of the shares of the capital stock of the corporation issued in replacement of shares issued with such a stipulation, that were issued in the year of the purchase or redemption but before the time of the purchase or redemption or in the three years preceding that year and distributed in Québec or in replacement of shares issued in substitution for such shares, is of the paid-up capital at the time of the issue in respect of the aggregate of such shares of the corporation; and

(b) 25% of the adjusted cost of the aggregate of

i. the shares of the capital stock of the corporation that were issued, in the year of the purchase or redemption but before the time of the purchase or redemption or in the three years preceding that year, with the stipulation that they could be included in an SME growth stock plan, and distributed in Québec to an individual or to a qualified mutual fund,

ii. the shares of the capital stock of the corporation issued in replacement of shares that are not described in subparagraph i, that were issued, in the year of the purchase or redemption but before the time of the purchase or redemption or in the three years preceding that year, with the stipulation that they could be included in an SME growth stock plan, and distributed in Québec to an individual or to a qualified mutual fund, and

iii. the shares of the capital stock of the corporation issued in replacement of shares, other than shares described in subparagraph ii, issued in substitution for shares, other than shares described in subparagraph i, that were issued, in the year of the purchase or redemption or in the three years preceding that year, with the stipulation that they could be included in an SME growth stock plan, and distributed in Québec to an individual or to a qualified mutual fund.

**“1049.14.5.** If shares of the capital stock of a corporation, other than shares that have been the subject of a particular transaction referred to in section 965.113 in respect of which the corporation is not bound to meet the requirement set out in the second paragraph of section 965.107, were, at a particular time, the subject of a transaction or operation or of a series of transactions or operations and if, in the opinion of the Minister, it is reasonable to believe that the transaction or operation or the series of transactions or operations is equivalent to the redemption of a share of its capital stock other than a share described in section 965.108, the corporation incurs a penalty equal to the amount determined under the second paragraph if it issued, in the year including the particular time but before that time or in the three years preceding that year, a share of its capital stock with the stipulation that it could be included in an SME growth stock plan or issued a share of its capital stock in replacement of a share issued with such a stipulation in the year including the particular time but before that time or in the three years preceding that year or in replacement of a share issued in substitution for such a share.

The amount of the penalty prescribed in the first paragraph in respect of a transaction or operation or of a series of transactions or operations is equal to the lesser of

(a) 25% of the amount obtained by multiplying the amount determined under section 965.109 in respect of the transaction or operation or of the series of transactions or operations by the proportion that the adjusted cost of the aggregate of the shares of the capital stock of the corporation that were issued, in the year of the transaction or operation or of the series of transactions or operations but before the time of the transaction or operation or of the series of transactions or operations or in the three years preceding that year, with the stipulation that they could be included in an SME growth stock plan, and distributed in Québec and of the shares of the capital stock of the corporation issued in replacement of shares issued with such a stipulation, that were issued in the year of the transaction or operation or of the series of transactions or operations but before the time of the transaction or operation or of the series of transactions or operations or in the three years preceding that year and distributed in Québec, is of the paid-up capital at the time of the issue in respect of the aggregate of such shares of the corporation; and

(b) 25% of the adjusted cost of the aggregate of

i. the shares of the capital stock of the corporation that were issued, in the year of the transaction or operation or of the series of transactions or operations but before the time of the transaction or operation or of the series of transactions

or operations or in the three years preceding that year, with the stipulation that they could be included in an SME growth stock plan, and distributed in Québec to an individual or to a qualified mutual fund,

ii. the shares of the capital stock of the corporation issued in replacement of shares that are not described in subparagraph i, that were issued, in the year of the transaction or operation or of the series of transactions or operations but before the time of the transaction or operation or of the series of transactions or operations or in the three years preceding that year, with the stipulation that they could be included in an SME growth stock plan, and distributed in Québec to an individual or to a qualified mutual fund, and

iii. the shares of the capital stock of the corporation issued in replacement of shares, other than shares described in subparagraph ii, issued in substitution for shares, other than shares described in subparagraph i, that were issued, in the year of the transaction or operation or of the series of transactions or operations but before the time of the transaction or operation or of the series of transactions or operations or in the three years preceding that year, with the stipulation that they could be included in an SME growth stock plan, and distributed in Québec to an individual or to a qualified mutual fund.

**“1049.14.6.** If a corporation issues a share of its capital stock with the stipulation that it can be included in an SME growth stock plan, or issues a share of its capital stock in replacement of a share issued with such a stipulation or in replacement of a share issued in substitution for such a share, and the corporation’s net shareholders’ equity is affected in any manner whatever, directly or indirectly, in the year the share issued with such a stipulation was issued but after the time of the issue or in the three years following that year, following a transaction or operation or a series of transactions or operations other than that referred to in section 965.112 or a particular transaction referred to in section 965.113 in respect of which the corporation is not bound to meet the requirement set out in the second paragraph of section 965.110, it incurs a penalty equal to the amount determined under the second paragraph if, in the opinion of the Minister, it is reasonable to believe that the transaction or operation or the series of transactions or operations is equivalent to the redemption of a share of a class of its capital stock other than a share described in section 965.111.

The amount of the penalty prescribed in the first paragraph in respect of a transaction or operation or of a series of transactions or operations is equal to the lesser of

(a) 25% of the amount obtained by multiplying the amount determined under the second paragraph of section 965.110 in respect of the transaction or operation or of the series of transactions or operations by the proportion that the adjusted cost of the aggregate of the shares of the capital stock of the corporation that were issued, in the year of the transaction or operation or of the series of transactions or operations but before the time of the transaction or operation or of the series of transactions or operations or in the three years



preceding that year, with the stipulation that they could be included in an SME growth stock plan, and distributed in Québec and of the shares of the capital stock of the corporation issued in replacement of shares issued with such a stipulation, that were issued in the year of the transaction or operation or of the series of transactions or operations but before the time of the transaction or operation or of the series of transactions or operations or in the three years preceding that year and distributed in Québec, is of the paid-up capital at the time of the issue in respect of the aggregate of such shares of the corporation; and

(b) 25% of the adjusted cost of the aggregate of

i. the shares of the capital stock of the corporation that were issued, in the year of the transaction or operation or of the series of transactions or operations but before the time of the transaction or operation or of the series of transactions or operations or in the three years preceding that year, with the stipulation that they could be included in an SME growth stock plan, and distributed in Québec to an individual or to a qualified mutual fund,

ii. the shares of the capital stock of the corporation issued in replacement of shares that are not described in subparagraph i, that were issued, in the year of the transaction or operation or of the series of transactions or operations but before the time of the transaction or operation or of the series of transactions or operations or in the three years preceding that year, with the stipulation that they could be included in an SME growth stock plan, and distributed in Québec to an individual or to a qualified mutual fund, and

iii. the shares of the capital stock of the corporation issued in replacement of shares, other than shares described in subparagraph ii, issued in substitution for shares, other than shares described in subparagraph i, that were issued, in the year of the transaction or operation or of the series of transactions or operations but before the time of the transaction or operation or of the series of transactions or operations or in the three years preceding that year, with the stipulation that they could be included in an SME growth stock plan, and distributed in Québec to an individual or to a qualified mutual fund.

**“1049.14.7.** The Minister may stay the imposition of a penalty under any of sections 1049.14.4 to 1049.14.6 in respect of a corporation that plans to carry out or has already carried out a transaction referred to in any of those sections, if the corporation has applied to the Minister to that effect and undertakes to comply with any of the conditions set out in section 1049.14.8.

The Minister may at any time revoke the stay provided for in the first paragraph if the Minister is of the opinion that the undertaking of the corporation is compromised.

**“1049.14.8.** The conditions to be complied with by a corporation referred to in section 1049.14.7 are that the corporation must issue shares of its capital stock that meet the requirement set out in paragraph *b* of



section 965.74 and are not qualifying shares, or that shares of its capital stock must be the subject of a transaction or operation or of a series of transactions or operations that, in the opinion of the Minister, can reasonably be believed to be equivalent to the issue of shares of the capital stock of the corporation that meet the requirement set out in that paragraph *b*, for an amount equal to or greater than the amount of the purchase or redemption referred to in the first paragraph of section 1049.14.4 or an amount determined under section 965.109 or the second paragraph of section 965.110 in respect of a transaction referred to in section 1049.14.5 or 1049.14.6, on or before the expiry of a period of two years that begins on the day after the day of the beginning of the transaction to which section 1049.14.7 refers.

**“1049.14.9.** Despite sections 1049.14.4 to 1049.14.6, if the Minister, under section 1049.14.7, stays the imposition of a penalty in respect of a corporation for a particular transaction and the corporation fulfills, to the satisfaction of the Minister, its undertaking under section 1049.14.7, the corporation incurs no penalty for the transaction.

**“1049.14.10.** Despite sections 1049.14.4 to 1049.14.6, if the amount of a particular penalty under any of those sections is greater than the excess amount determined under the second paragraph, the amount of the particular penalty is to be reduced to that excess amount.

The excess amount to which the first paragraph refers in respect of a particular penalty relating to a transaction referred to in any of the sections referred to in that paragraph is the amount by which the amount determined under the third paragraph exceeds the amount determined under the fourth paragraph.

The amount determined under this paragraph is equal to 25% of the aggregate of the adjusted cost of

(a) the shares of the capital stock of the corporation that were issued, in the year of the transaction but before the time of the transaction or in the three years preceding that year, with the stipulation that they could be included in an SME growth stock plan, and distributed in Québec to an individual or to a qualified mutual fund;

(b) the shares of the capital stock of the corporation issued in replacement of shares that are not described in subparagraph *a*, that were issued, in the year of the transaction but before the time of the transaction or in the three years preceding that year, with the stipulation that they could be included in an SME growth stock plan, and distributed in Québec to an individual or to a qualified mutual fund; and

(c) the shares of the capital stock of the corporation issued in replacement of shares, other than shares described in subparagraph *b*, issued in substitution for shares, other than shares described in subparagraph *a*, that were issued, in the year of the transaction but before the time of the transaction or in the three years preceding that year, with the stipulation that they could be included in an

SME growth stock plan, and distributed in Québec to an individual or to a qualified mutual fund.

The amount determined under this paragraph is equal to the aggregate of the penalties incurred by the corporation under sections 1049.14.4 to 1049.14.6 before the imposition of the particular penalty in respect of the shares of its capital stock that are described in the third paragraph.

**“1049.14.11.** The Minister may cancel or reduce the amount of a penalty that would, but for this section, be determined under any of sections 1049.14.4 to 1049.14.6 in respect of a corporation, if the Minister considers that, under the circumstances, the amount would otherwise be excessive.

**“1049.14.12.** For the purposes of this Part, except section 1049.14.11 and this section, if the Minister reduces to a particular amount the amount of a penalty determined under any of sections 1049.14.4 to 1049.14.6 in respect of a transaction, the particular amount is deemed to be the amount determined under that section in respect of the transaction.

**“1049.14.13.** If a mutual fund states falsely in its final prospectus that the issued securities can be included in an SME growth stock plan described in paragraph *b* of section 965.56, the mutual fund manager or trustee incurs a penalty equal to 25% of the adjusted cost that would be determined under section 965.124 if the statement of the mutual fund were true, of each security of the issue distributed in Québec to an individual.

**“1049.14.14.** If, in a year, as a result of the administration of a qualified mutual fund by a manager or trustee, the qualified mutual fund is unable to fulfill its undertaking under subparagraph *a* of the first paragraph of section 965.119 in respect of a public security issue made by the qualified mutual fund in the year and if, in the final prospectus relating to the issue, a percentage is stipulated to determine the adjusted cost of securities that are qualifying securities, the manager or trustee incurs a penalty equal to 25% of the amount by which the adjusted cost of the aggregate of the qualifying securities issued by the manager or trustee in the year as part of the public security issue that are valid qualifying securities exceeds the adjusted cost of the qualifying shares acquired by the qualified mutual fund during the year with the proceeds of the issue of such qualifying securities.

**“1049.14.15.** If, on 31 December in a year, as a result of the administration of a qualified mutual fund by a manager or trustee, the qualified mutual fund is unable to fulfill its undertaking under subparagraph *b* of the first paragraph of section 965.119 in respect of a public security issue made by the qualified mutual fund in the year, the manager or trustee incurs a penalty equal to 25% of the amount by which the adjusted cost of the aggregate of the qualifying securities issued by the manager or trustee in the year and in the preceding three years as part of the public security issue that have not been redeemed by the qualified mutual fund on or before 31 December in the year

exceeds the adjusted cost of the qualifying shares or valid shares owned by the qualified mutual fund on 31 December in the year.

**“1049.14.16.** If, on 31 December in a particular year, as a result of the administration of a qualified mutual fund by a manager or trustee, the qualified mutual fund is unable to fulfill its undertaking under paragraph *a* of section 965.121 in respect of a public security issue made by the qualified mutual fund in the year preceding the particular year, the manager or trustee incurs a penalty equal to 25% of the proportion of the amount by which the portion, which is the subject of the undertaking under that paragraph *a*, of the proceeds for the year preceding the particular year, of the public security issue exceeds the greater of the particular amount referred to in paragraph *c* of that section in respect of the year preceding the particular year and the cost, determined without reference to the borrowing costs, brokerage or custody fees or other similar costs, to the qualified mutual fund, of the aggregate of the qualifying shares described in that paragraph *a* acquired by the qualified mutual fund during the particular year or the year preceding that year with the proceeds of the public security issue, other than any such qualifying shares having already been used, in respect of the particular year or the year preceding that year, for the purposes of paragraph *c* of section 965.121, as is represented by the ratio that the portion of the proceeds, for the year preceding the particular year, of the public security issue derived from the issue of qualifying securities is of the proceeds of the issue.

**“1049.14.17.** If, on 31 December in a particular year, as a result of the administration of a qualified mutual fund by a manager or trustee, the qualified mutual fund is unable to fulfill its undertaking under paragraph *b* of section 965.121 in respect of a public security issue made by the qualified mutual fund in the year preceding the particular year, the manager or trustee incurs a penalty equal to 25% of the proportion of the amount by which the adjusted cost of the aggregate of the qualifying shares described in paragraph *a* of that section that should have been acquired by the qualified mutual fund in the particular year and in the year preceding that year with the proceeds, for the year preceding the particular year, of the public security issue for the undertaking to be fulfilled, exceeds the greater of the particular amount referred to in paragraph *c* of that section in respect of the year preceding the particular year and the adjusted cost of the aggregate of the qualifying shares described in that paragraph *a* acquired by the qualified mutual fund during the particular year or the year preceding that year with the proceeds of the public security issue, other than any such qualifying shares having already been used, in respect of the particular year or the year preceding that year, for the purposes of paragraph *c* of section 965.121, as is represented by the ratio that the portion of the proceeds, for the year preceding the particular year, of the public security issue derived from the issue of qualifying securities is of the proceeds of the issue.

**“1049.14.18.** If, in a year, as a result of the administration of a qualified mutual fund by a manager or trustee, the qualified mutual fund is unable to fulfill its undertaking under paragraph *c* of section 965.121 in

respect of a public security issue made by the qualified mutual fund in the year and, in the final prospectus relating to the issue, a percentage has been stipulated to determine the adjusted cost of securities that are qualifying securities, the manager or trustee incurs a penalty equal to 25% of the amount by which the amount determined under the second paragraph exceeds the amount determined under the third paragraph.

The amount determined under this paragraph is equal to the amount by which the adjusted cost of the aggregate of the qualifying securities issued in the year that are valid qualifying securities exceeds the particular amount referred to in paragraph *c* of section 965.121 in respect of the year.

The amount determined under this paragraph is equal to the adjusted cost of the qualifying shares acquired by the qualified mutual fund during the year with the portion of the proceeds of the issue of valid qualifying securities issued in the year that exceeds the particular amount referred to in paragraph *c* of section 965.121 in respect of the year, other than qualifying shares having already been used, in respect of the year, for the purposes of paragraph *d* of section 965.121.

**“1049.14.19.** If, in a particular year, as a result of the administration of a qualified mutual fund by a manager or trustee, the qualified mutual fund is unable to fulfill its undertaking under paragraph *d* of section 965.121 in respect of a public security issue made by the qualified mutual fund in the year preceding the particular year, the manager or trustee incurs a penalty equal to 25% of the amount by which the particular amount referred to in paragraph *c* of that section in respect of the year preceding the particular year, exceeds the adjusted cost of the qualifying shares described in paragraph *a* of that section, acquired by the qualified mutual fund during the particular year or the year preceding that year with the proceeds of the public security issue, other than any such qualifying shares having already been used, in respect of the particular year or the year preceding that year, for the purposes of paragraph *c* of section 965.121.

**“1049.14.20.** If, on 31 December in a year, as a result of the administration of a qualified mutual fund by a manager or trustee, the qualified mutual fund is unable to fulfill its undertaking under paragraph *e* of section 965.121, the manager or trustee incurs a penalty equal to 25% of the amount by which the adjusted cost of the qualifying shares or valid shares owned by the qualified mutual fund on 31 December in the year, other than qualifying shares or valid shares having already been used, in respect of the year, for the purposes of paragraph *f* of that section, is exceeded by the amount by which the adjusted cost of the aggregate of the qualifying securities issued in the year and the preceding three years that have not been redeemed by the qualified mutual fund on or before 31 December in the year exceeds the aggregate of all amounts each of which is a particular amount referred to in paragraph *c* of section 965.121 in respect of the year or any of the preceding three years.

**“1049.14.21.** If, on 31 December in a year, as a result of the administration of a qualified mutual fund by a manager or trustee, the qualified mutual fund is unable to fulfill its undertaking under paragraph *f* of section 965.121, the manager or trustee incurs a penalty equal to 25% of the amount by which the aggregate of the amounts each of which is a particular amount referred to in paragraph *c* of that section in respect of any of the preceding three years, exceeds the adjusted cost of the qualifying shares or valid shares owned by the qualified mutual fund on 31 December in the year, other than qualifying shares or valid shares having already been used, in respect of the year, for the purposes of paragraph *e* of section 965.121.

**“1049.14.22.** If, on 31 December in a year, as a result of the administration of a qualified mutual fund by a manager or trustee, the qualified mutual fund is unable to fulfill its undertaking under subparagraph *c* of the first paragraph of section 965.119 or paragraph *g* of section 965.121 in respect of a public security issue made by the qualified mutual fund in the year, the manager or trustee incurs a penalty equal to 25% of the amount that would be computed under section 965.129 if that section were applicable to the qualified mutual fund.

**“1049.14.23.** If a corporation fails to send a copy of the report provided for in paragraph *d* of section 6.1 of Regulation 45-106 respecting prospectus and registration exemptions approved by ministerial order 2005-20 (2005, G.O. 2, 3664) to the Minister within the prescribed time, in accordance with paragraph *d* of section 965.76, the corporation incurs a penalty of \$25 a day for every day the omission continues, up to \$10,000.

**“1049.14.24.** If a corporation obtains a designation of eligibility under section 965.88 on false representations, the corporation incurs a penalty of \$100,000.”

(2) Subsection 1 has effect from 22 April 2005. However, when section 1049.14.23 of the Act applies before 14 September 2005, it reads as if “a copy of the report provided for in paragraph *d* of section 6.1 of Regulation 45-106 respecting prospectus and registration exemptions approved by ministerial order 2005-20 (2005, G.O. 2, 3664)” was replaced by “a copy of the notice provided for in section 46 of the Securities Act (chapter V-1.1)”.

**203.** (1) Section 1079.9 of the Act is amended

(1) by replacing “Aux fins” in the portion before the definition of “attributs fiscaux” in the French text by “Pour l’application”;

(2) by replacing the definition of “tax benefit” by the following definition:

““tax benefit” means a reduction, avoidance or deferral of the tax or of another amount payable under this Act or an increase in a refund of tax or of another amount under this Act, including a reduction, avoidance or deferral of the tax or of another amount that would be payable under this Act but for a tax

agreement, and an increase in a refund of tax or of another amount under this Act that results from a tax agreement;”;

(3) by adding the following paragraph:

“The definition of “tax agreement” in section 1 is deemed, for the purposes of this Title, to have effect from 13 September 1988.”

(2) Paragraph 2 of subsection 1 applies in respect of a transaction entered into after 12 September 1988.

**204.** (1) Section 1079.12 of the Act is replaced by the following section:

**“1079.12.** Section 1079.10 applies to a transaction only if it may reasonably be considered that

(a) but for this Title, the transaction would directly or indirectly result in a misuse of the provisions of one or more of

- i. this Act,
- ii. the Act respecting the application of the Taxation Act (chapter I-4),
- iii. the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1),
- iv. a tax agreement, or
- v. any other legislative or regulatory provision that is relevant for computing the tax or another amount payable by a person or refundable to a person under this Act, or for determining an amount that is to be taken into account in that computation; or

(b) the transaction would directly or indirectly result in an abuse having regard to the provisions referred to in paragraph *a*, other than this Title, read as a whole.”

(2) Subsection 1 applies in respect of a transaction entered into after 12 September 1988.

**205.** (1) Section 1079.13 of the Act is amended

(1) by inserting “and despite any other legislative or regulatory provision” after “section 1079.10” in the portion before paragraph *a*;

(2) by inserting “, exemption or exclusion” after “deduction” in paragraphs *a* and *b*.

(2) Subsection 1 applies in respect of a transaction entered into after 12 September 1988.

**206.** (1) Section 1082.3 of the Act, amended by section 276 of chapter 1 of the statutes of 2005, is again amended by replacing the definition of “tax benefit” in the first paragraph by the following definition:

““tax benefit” has the meaning assigned by section 1079.9;”.

(2) Subsection 1 applies to a taxation year or fiscal period that begins after 31 December 1997.

**207.** (1) Section 1086.10 of the Act is replaced by the following section:

**“1086.10.** Every individual who received, or whose legal representative received, an advance payment made by the authorized manager for a taxation year under section 1029.8.61.6 shall pay for the year a tax equal to the aggregate of all amounts each of which is an amount of the advance payment.”

(2) Subsection 1 applies in respect of a death that occurs after 31 August 2005.

**208.** (1) Section 1121.12 of the Act is amended by replacing “amount under section 663.1 or” in the portion before paragraph *a* by “amount in accordance with the first paragraph of sections 663.1 and”.

(2) Subsection 1 applies to a taxation year in relation to which the time limits provided for in subsection 2 of section 1010 of the Act had not expired on 9 May 2006.

**209.** (1) The Act is amended by inserting the following after section 1129.4.3.30:

#### **“PART III.1.1.8**

#### **“SPECIAL TAX RELATING TO THE CREDIT FOR MAJOR EMPLOYMENT-GENERATING PROJECTS**

**“1129.4.3.31.** In this Part,

“eligible contract” has the meaning assigned by the first paragraph of section 1029.8.36.0.3.72;

“eligible employee” has the meaning assigned by the first paragraph of section 1029.8.36.0.3.72;

“Minister” means the Minister of Revenue;



“qualified wages” has the meaning assigned by the first paragraph of section 1029.8.36.0.3.72;

“taxation year” has the meaning assigned by Part I;

“wages” has the meaning assigned by the first paragraph of section 1029.8.36.0.3.72.

**“1129.4.3.32.** Every corporation that is deemed to have paid an amount to the Minister, under section 1029.8.36.0.3.73, on account of its tax payable for a taxation year under Part I, in relation to qualified wages incurred in the taxation year in respect of an eligible employee, in relation to an eligible contract, shall pay the tax computed under the second paragraph for a subsequent taxation year, in this section referred to as the “particular year”, in which Investissement Québec revokes a qualification certificate issued to the corporation, in relation to the eligible contract, for the purposes of Division II.6.0.1.8 of Chapter III.1 of Title III of Book IX of Part I.

The tax to which the first paragraph refers is equal to the amount by which the aggregate of all amounts each of which is an amount that the corporation is deemed to have paid to the Minister under section 1029.8.36.0.3.73 or 1029.8.36.0.3.76, in relation to qualified wages incurred in respect of an eligible employee, in relation to the eligible contract, exceeds the aggregate of all amounts each of which is a tax that the corporation is required to pay to the Minister under section 1129.4.3.33 for a taxation year preceding the particular year, in relation to the qualified wages.

**“1129.4.3.33.** Every corporation that is deemed to have paid an amount to the Minister, under section 1029.8.36.0.3.73, on account of its tax payable for a particular taxation year under Part I, in relation to qualified wages incurred in the taxation year in respect of an eligible employee, in relation to an eligible contract, shall pay the tax computed under the second paragraph for a subsequent taxation year, in this section referred to as the “repayment year”, in which an amount relating to wages included in computing the qualified wages is, directly or indirectly, refunded or otherwise paid to the corporation or allocated to a payment to be made by the corporation.

The tax to which the first paragraph refers is equal to the amount by which the aggregate of all amounts each of which is an amount that the corporation is deemed to have paid to the Minister under section 1029.8.36.0.3.73 or 1029.8.36.0.3.76, in relation to the qualified wages, exceeds the total of

(a) the aggregate of all amounts each of which is an amount that the corporation would be deemed to have paid to the Minister, under section 1029.8.36.0.3.73 or 1029.8.36.0.3.76, in relation to the qualified wages, if every amount that is, at or before the end of the repayment year, so refunded, paid or allocated, in relation to wages included in computing the qualified wages, were refunded, paid or allocated in the particular year; and



(b) the aggregate of all amounts each of which is a tax that the corporation is required to pay to the Minister under this section for a taxation year preceding the repayment year, in relation to the qualified wages.

For the purposes of the first and second paragraphs, the following rules apply:

(a) if Investissement Québec revokes, in a given taxation year, a qualification certificate issued to a corporation, for the purposes of Division II.6.0.1.8 of Chapter III.1 of Title III of Book IX of Part I, in relation to an employee, certifying that the employee is an eligible employee for all or part of a preceding taxation year, in relation to an eligible contract, the amount relating to the wages included in computing the qualified wages incurred by the corporation in respect of the employee, for all or part of the preceding taxation year, is deemed to be refunded to the corporation in the given taxation year; and

(b) if, in a given taxation year, a person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain, whether in the form of a reimbursement, compensation or guarantee, in the form of proceeds of disposition of a property which exceed the fair market value of the property, or in any other form or manner, a benefit or advantage in respect of wages included in computing the qualified wages incurred by the corporation in respect of an eligible employee for all or part of a preceding taxation year, other than a benefit or advantage that may reasonably be attributed to work performed by the eligible employee under the eligible contract for the preceding taxation year, the amount of the benefit or advantage is deemed to be an amount relating to the wages included in computing the qualified wages incurred by the corporation in respect of the employee, for all or part of the preceding taxation year, that is refunded to the corporation in the given taxation year.

However, no tax is payable under this section if section 1129.4.3.32 applies in respect of the qualified wages for the repayment year or a preceding taxation year.

**“1129.4.3.34.** For the purposes of Part I, except Division II.6.0.1.8 of Chapter III.1 of Title III of Book IX, the tax paid at any time by a corporation to the Minister under section 1129.4.3.32 or 1129.4.3.33, in relation to qualified wages, is deemed to be an amount of assistance repaid at that time by the corporation in respect of the wages, pursuant to a legal obligation.

**“1129.4.3.35.** Except where inconsistent with this Part, the first paragraph of section 549, section 564 where it refers to the first paragraph of section 549, sections 1000 to 1024, subparagraph *b* of the first paragraph of section 1027 and sections 1037 to 1079.16 apply, with the necessary modifications, to this Part.”

(2) Subsection 1 has effect from 1 January 2005.

**210.** (1) Section 1129.33 of the Act is amended by replacing “sections 21.2 to 21.4” in the first paragraph by “sections 21.2 to 21.3.1 and 21.4”.

(2) Subsection 1 has effect from 12 June 2003.

**211.** (1) Section 1129.42 of the Act is amended by inserting the following definition in alphabetical order:

““qualified outside consultant” has the meaning assigned by section 1029.8.36.4;”.

(2) Subsection 1 applies from 22 April 2005.

**212.** (1) Sections 1129.43 and 1129.44 of the Act are replaced by the following sections:

**“1129.43.** Every corporation that is deemed to have paid an amount to the Minister, under section 1029.8.36.5, on account of its tax payable under Part I for a particular taxation year in relation to a design activity carried out under a contract entered into with a qualified outside consultant shall pay the tax computed under the second paragraph for a subsequent taxation year, in this section referred to as the “repayment year”, in which an amount relating to the amount of an expenditure incurred under the contract is, directly or indirectly, refunded or otherwise paid to the corporation or allocated to a payment to be made by the corporation.

The tax to which the first paragraph refers is equal to the amount by which the aggregate of all amounts each of which is an amount that the corporation is deemed to have paid to the Minister for a taxation year preceding the repayment year under section 1029.8.36.5 or 1029.8.36.20, in relation to the design activity carried out under the contract, exceeds the total of

(a) the aggregate of all amounts each of which is an amount that the corporation would be deemed to have paid to the Minister for a taxation year preceding the repayment year under section 1029.8.36.5 or 1029.8.36.20, in relation to the design activity carried out under the contract, if every amount that is, at or before the end of the repayment year, so refunded, paid or allocated, in relation to the amount of an expenditure incurred by the corporation under the contract, were refunded, paid or allocated in the particular taxation year; and

(b) the aggregate of all amounts each of which is a tax that the corporation is required to pay to the Minister under this section for a taxation year preceding the repayment year, in relation to the contract.

**“1129.44.** Every corporation that is a member of a partnership and that is deemed to have paid an amount to the Minister, under section 1029.8.36.6, on account of its tax payable under Part I, in relation to a design activity carried out under a contract entered into with a qualified outside consultant,

for a particular taxation year in respect of the amount of an expenditure incurred under the contract by the partnership in a particular fiscal period of the partnership that ends in the particular year, shall pay the tax computed under the second paragraph for the taxation year in which a subsequent fiscal period of the partnership ends, in this section referred to as the “fiscal period of repayment”, in which an amount relating to the expenditure is, directly or indirectly, refunded or otherwise paid to the partnership or corporation or allocated to a payment to be made by the partnership or corporation.

The tax to which the first paragraph refers is equal to the amount by which the aggregate of all amounts each of which is an amount that the corporation would be deemed to have paid to the Minister for a taxation year in which a fiscal period of the partnership preceding the fiscal period of repayment ends, under any of sections 1029.8.36.6, 1029.8.36.21 and 1029.8.36.22, in relation to the design activity carried out under the contract, if the corporation’s share of the income or loss of the partnership for that preceding fiscal period were the same as the corporation’s share for the fiscal period of repayment, exceeds the total of

(a) the aggregate of all amounts each of which is an amount that the corporation would be deemed to have paid to the Minister under any of sections 1029.8.36.6, 1029.8.36.21 and 1029.8.36.22, for a taxation year in which a fiscal period of the partnership preceding the fiscal period of repayment ends, in relation to the amount of an expenditure incurred under the contract, if

i. every amount that is, at or before the end of the fiscal period of repayment, so refunded, paid or allocated, in relation to the amount of an expenditure incurred under the contract, were refunded, paid or allocated in the particular fiscal period, and

ii. the corporation’s share of the income or loss of the partnership for that preceding fiscal period were the same as the corporation’s share for the fiscal period of repayment; and

(b) the aggregate of all amounts each of which is a tax that the corporation would be required to pay to the Minister under this section, for a taxation year preceding the taxation year in which the fiscal period of repayment ends, in relation to the design activity carried out under the contract, if the corporation’s share of the income or loss of the partnership for the partnership’s fiscal period that ends in the preceding taxation year were the same as the corporation’s share for the fiscal period of repayment.

For the purposes of the second paragraph, an amount referred to in subparagraph i of subparagraph a of that paragraph that is refunded or otherwise paid to the corporation or allocated to a payment to be made by the corporation is deemed to be an amount

(a) that is refunded or otherwise paid to the partnership or allocated to a payment to be made by the partnership; and

(b) that is determined by multiplying the amount refunded, paid or allocated by the proportion that the income or loss of the partnership for the fiscal period of repayment is of the corporation's share of that income or loss, on the assumption that, if the partnership's income and loss for the fiscal period are nil, the partnership's income is equal to \$1,000,000."

(2) Subsection 1 applies in respect of an amount that is refunded, otherwise paid or allocated to a payment to be made by a corporation or partnership and that relates to an expenditure incurred after 21 April 2005 under a contract entered into with a qualified outside consultant after that date.

(3) In addition, when sections 1129.43 and 1129.44 of the Act apply in respect of an amount that is, after 21 April 2005, refunded, otherwise paid or allocated to a payment, and that relates to an expenditure other than an expenditure incurred after 21 April 2005 under a contract entered into with a qualified outside consultant after that date, they read as follows:

**"1129.43.** Every corporation that is deemed to have paid an amount to the Minister, under any of sections 1029.8.36.5 to 1029.8.36.7, on account of its tax payable under Part I for a particular taxation year shall, if, in a subsequent taxation year, an amount relating to an expenditure or to its share of such an expenditure, in respect of which it is so deemed to have paid an amount is, directly or indirectly, refunded or otherwise paid to the corporation or allocated to a payment to be made by the corporation, pay, for that subsequent year, a tax equal to the amount obtained by applying to the amount so refunded, otherwise paid or allocated, the percentage that was applied to the expenditure for the particular taxation year under section 1029.8.36.5 or 1029.8.36.7, or to its share of the expenditure for the particular taxation year under section 1029.8.36.6.

**"1129.44.** Every corporation that is a member of a partnership and that is deemed to have paid an amount to the Minister, under section 1029.8.36.6, on account of its tax payable under Part I, for a particular taxation year in respect of its share of an expenditure incurred by the partnership in a fiscal period of the partnership shall, if, in a subsequent fiscal period of the partnership, an amount relating to the expenditure is, directly or indirectly, refunded or otherwise paid to the partnership or allocated to a payment to be made by the partnership, pay, for the taxation year in which that subsequent fiscal period ends, a tax equal to the amount obtained by applying to its share of the amount so refunded, otherwise paid or allocated, the percentage that was applied to its share of the expenditure for the particular taxation year under that section.

For the purposes of the first paragraph, the corporation's share of an amount refunded, otherwise paid or allocated is equal to the proportion of the amount that the corporation's share of the income or loss of the partnership for the fiscal period of the partnership ending in the particular taxation year is of the income or loss of the partnership for that fiscal period, on the assumption that, if the income and loss of the partnership for that fiscal period are nil, the partnership's income for the fiscal period is equal to \$1,000,000."

**213.** (1) The Act is amended by inserting the following sections after section 1129.44:

**“1129.44.1.** Every corporation that is deemed to have paid an amount to the Minister, under section 1029.8.36.7, on account of its tax payable under Part I for a particular taxation year in relation to wages incurred in that particular year shall pay the tax computed under the second paragraph for a subsequent taxation year, in this section referred to as the “repayment year”, in which an amount relating to the wages is, directly or indirectly, refunded or otherwise paid to the corporation or allocated to a payment to be made by the corporation.

The tax to which the first paragraph refers is equal to the amount by which the aggregate of all amounts each of which is an amount that the corporation is deemed to have paid to the Minister under section 1029.8.36.7 or 1029.8.36.23, in relation to the wages, exceeds the total of

(a) the aggregate of all amounts each of which is an amount that the corporation would be deemed to have paid to the Minister under section 1029.8.36.7 or 1029.8.36.23, in relation to the wages, if every amount that is, at or before the end of the repayment year, so refunded, paid or allocated, in relation to the wages, were refunded, paid or allocated in the particular year; and

(b) the aggregate of all amounts each of which is a tax that the corporation is required to pay to the Minister under this section for a taxation year preceding the repayment year, in relation to the wages.

**“1129.44.2.** Every corporation that is a member of a partnership and that is deemed to have paid an amount to the Minister, under section 1029.8.36.7.1, on account of its tax payable under Part I for a particular taxation year, in relation to wages incurred by the partnership in a particular fiscal period of the partnership that ends in the particular year, shall pay the tax computed under the second paragraph for the taxation year in which a subsequent fiscal period of the partnership ends, in this section referred to as the “fiscal period of repayment”, in which an amount relating to the wages is, directly or indirectly, refunded or otherwise paid to the partnership or corporation or allocated to a payment to be made by the partnership or corporation.

The tax to which the first paragraph refers is equal to the amount by which the aggregate of all amounts each of which is an amount that the corporation would be deemed to have paid to the Minister for a taxation year, under any of sections 1029.8.36.7.1, 1029.8.36.23.1 and 1029.8.36.23.2, in relation to the wages, if the corporation’s share of the income or loss of the partnership for the partnership’s fiscal period that ends in the taxation year were the same as the corporation’s share for the fiscal period of repayment, exceeds the total of

(a) the aggregate of all amounts each of which is an amount that the corporation would be deemed to have paid to the Minister under any of sections 1029.8.36.7.1, 1029.8.36.23.1 and 1029.8.36.23.2, for a taxation year, in relation to the wages, if

i. every amount that is, at or before the end of the fiscal period of repayment, so refunded, paid or allocated, in relation to the wages, were refunded, paid or allocated in the particular fiscal period, and

ii. the corporation's share of the income or loss of the partnership for the partnership's fiscal period that ends in the taxation year were the same as the corporation's share for the fiscal period of repayment; and

(b) the aggregate of all amounts each of which is a tax that the corporation would be required to pay to the Minister under this section, for a taxation year preceding the taxation year in which the fiscal period of repayment ends, in relation to the wages, if the corporation's share of the income or loss of the partnership for the partnership's fiscal period that ends in the preceding taxation year were the same as the corporation's share for the fiscal period of repayment.

For the purposes of the second paragraph, an amount referred to in subparagraph i of subparagraph a of that paragraph that is refunded or otherwise paid to the corporation or allocated to a payment to be made by the corporation is deemed to be an amount

(a) that is refunded or otherwise paid to the partnership or allocated to a payment to be made by the partnership; and

(b) that is determined by multiplying the amount refunded, paid or allocated by the proportion that the income or loss of the partnership for the fiscal period of repayment is of the corporation's share of that income or loss, on the assumption that, if the partnership's income and loss for the fiscal period are nil, the partnership's income is equal to \$1,000,000.

**“1129.44.3.** For the purposes of this Part, the following rules apply:

(a) if, in a given taxation year, a person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain, whether in the form of a reimbursement, compensation or guarantee, in the form of proceeds of disposition of a property which exceed the fair market value of the property, or in any other form or manner, a benefit or advantage in respect of a contract entered into with a qualified outside consultant that provides for the carrying out of a design activity and in respect of which a qualified corporation is deemed to have paid an amount to the Minister under section 1029.8.36.5 or 1029.8.36.6 for a preceding taxation year, other than a benefit or advantage that may reasonably be attributed to the carrying out of the design activity, the amount of the benefit or advantage is deemed to be

i. if section 1029.8.36.5 applies, an amount relating to the amount of an expenditure incurred under the contract by the corporation that is refunded to the corporation in the given taxation year,

ii. if section 1029.8.36.6 applies and except in the case referred to in subparagraph iii, an amount relating to the amount of an expenditure incurred under the contract by the partnership of which it is a member that is refunded to the partnership in a fiscal period of the partnership that ends in the given taxation year, and

iii. if section 1029.8.36.6 applies and the person who has obtained or is entitled to obtain the benefit or advantage is the qualified corporation or a person with whom it is not dealing at arm's length, an amount relating to the amount of an expenditure incurred under the contract by the partnership of which it is a member that is refunded to the corporation in the given taxation year; and

(b) if, in a given taxation year, a person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain, whether in the form of a reimbursement, compensation or guarantee, in the form of proceeds of disposition of a property which exceed the fair market value of the property, or in any other form or manner, a benefit or advantage in respect of wages in respect of which a qualified corporation is deemed to have paid an amount to the Minister under section 1029.8.36.7 or 1029.8.36.7.1 for a preceding taxation year, other than the benefit or advantage that may reasonably be attributed to work carried out by the employee in the performance of duties with the corporation in the case of section 1029.8.36.7, or with the partnership of which it is a member in the case of section 1029.8.36.7.1, the amount of the benefit or advantage is deemed to be

i. if section 1029.8.36.7 applies, an amount relating to wages incurred by the corporation, in respect of the employee, that is refunded to the corporation in the given taxation year,

ii. if section 1029.8.36.7.1 applies and except in the case referred to in subparagraph iii, an amount relating to wages incurred by the partnership, in respect of the employee, that is refunded to the partnership in a fiscal period of the partnership that ends in the given taxation year, and

iii. if section 1029.8.36.7.1 applies and the person who has obtained, is entitled to obtain or may reasonably expect to obtain the benefit or advantage is the qualified corporation or a person with whom it is not dealing at arm's length, an amount relating to wages incurred by the corporation, in respect of the employee, that is refunded to the corporation in the given taxation year.”

(2) Subsection 1, when it enacts section 1129.44.1 of the Act, applies in respect of an amount refunded, otherwise paid or allocated to a payment that relates to wages incurred after 21 April 2005 for work that relates to a design activity and that is carried out after that date.



(3) Subsection 1, when it enacts section 1129.44.2 of the Act, applies to a fiscal period that ends after 21 April 2005.

(4) Subsection 1, when it enacts section 1129.44.3 of the Act, applies in respect of a benefit or advantage received or to be received after 21 April 2005.

**214.** (1) The Act is amended by inserting the following section after section 1135.9, enacted by section 314 of chapter 38 of the statutes of 2005:

**“1135.9.1.** A corporation deemed to have acquired a property at a particular time under paragraph *b* of section 125.1 is deemed, for the purposes of sections 1135.1 to 1135.8, to have acquired the property at that time at a cost of acquisition, incurred and paid at that time, equal to the fair market value of the property at that time, and to own the property from that time to the time at which it is deemed to dispose of the property under paragraph *f* of section 125.1.”

(2) Subsection 1 applies in respect of a lease entered into after 21 April 2005.

**215.** Sections 1135.10 and 1135.11 of the Act, enacted by section 314 of chapter 38 of the statutes of 2005, are repealed.

**216.** (1) Section 1137 of the Act, amended by section 316 of chapter 38 of the statutes of 2005, is again amended by inserting the following paragraph after paragraph *b*:

“(b.0.1) where it has included in that computation for the taxation year an amount relating to the financing of new automotive equipment that it has acquired for the purpose of resale, an amount equal to 50% of the lesser of the amount shown in its financial statements in relation to such automotive equipment it has in stock and the amount so included in that computation;”.

(2) Subsection 1 has effect from 1 January 2005. However, when section 1137 of the Act applies to a taxation year that includes 1 January 2005, it reads as if paragraph *b.0.1* was replaced by the following paragraph:

“(b.0.1) where it has included in that computation for the taxation year an amount relating to the financing of new automotive equipment that it has acquired for the purpose of resale, an amount equal to the proportion of 50% of the lesser of the amount shown in its financial statements in relation to such automotive equipment it has in stock and the amount so included in that computation that the number of days in the taxation year that follow 31 December 2004 is of the number of days in the taxation year;”.

**217.** Section 1137.5 of the Act, amended by section 256 of chapter 23 of the statutes of 2005, is again amended by replacing “lodging establishment” in subparagraph *a* of the second paragraph by “tourist accommodation establishment”.



**218.** (1) Section 1137.8 of the Act, amended by section 257 of chapter 23 of the statutes of 2005, is again amended

(1) by striking out “otherwise than under the circumstances described in the second paragraph,” in the first paragraph;

(2) by replacing the portion of the second paragraph before subparagraph *c* by the following:

“However, the first paragraph does not apply if the acquisition of control

(a) occurs before 1 July 2004 and Investissement Québec certifies that it results from a transaction that was sufficiently advanced on 11 June 2003 and was binding on the parties on that date;

(b) is by a corporation carrying on at that time a recognized business, by a person or group of persons that controls such a corporation, or by a group of persons each member of which is such a corporation or a person who, alone or together with other members of the group, controls such a corporation;”;

(3) by adding the following subparagraph after subparagraph *c* of the second paragraph:

“(d) derives from the performance after 11 June 2003 of one or more obligations described in the third paragraph of section 21.3.5 that were contracted before 12 June 2003.”;

(4) by adding the following paragraph after the second paragraph:

“Sections 21.2 to 21.3.3 and 21.4 to 21.4.1 apply, with the necessary modifications, to this section.”

(2) Subsection 1 has effect from 12 June 2003. However, when subparagraph *a* of the second paragraph of section 1137.8 of the Act applies before 31 March 2004, it reads as if “and Investissement Québec” was replaced by “and the Minister of Finance”.

**219.** (1) Section 1138 of the Act, amended by section 258 of chapter 23 of the statutes of 2005 and by section 318 of chapter 38 of the statutes of 2005, is again amended

(1) by striking out paragraph *a* of subsection 2;

(2) by replacing subsection 2.1.2 by the following subsection:

“(2.1.2) For the purposes of subsection 1, an investment in shares of a bank or a particular corporation related to a bank or a savings and credit union, a loan or an advance to such a particular corporation, an investment in bonds of another corporation, a property described in paragraph *a.1* of subsection 1, a property described in paragraph *b* or *c* of that subsection that is a commercial

paper, a property described in that paragraph *c* that is an investment in bonds of a partnership or a property described in any of paragraphs *d* to *d.2* of that subsection, is deemed not to be such a property if it was not held without interruption by the corporation throughout a 120-day period that includes the date of the end of its taxation year.”;

(3) by inserting the following subsection after subsection 3:

“(3.1) For the purposes of subsection 3, a corporation may deduct, in computing the amount of its assets, an amount shown in its financial statements resulting from a transaction between a partnership or a joint venture and its members, except to the extent that the transaction increased the amount of the corporation’s interest in the partnership or joint venture, shown as an asset in its financial statements.”

(2) Paragraph 1 of subsection 1 applies to a taxation year that begins after 29 March 2001.

(3) Paragraph 2 of subsection 1 applies to a taxation year that ends after 21 April 2005.

(4) Paragraph 3 of subsection 1 applies to a taxation year of a corporation in relation to which

(1) the time limits provided for in subsection 2 of section 1010 of the Act had not expired on 21 April 2005;

(2) a notice of objection has been notified to the Minister of Revenue before 21 April 2005 or an appeal has been filed, before that date, against an assessment, if one of the subjects of the contestation pertains to the deductibility, in computing the corporation’s assets, of an amount shown in its financial statements considering that it results from a transaction between the corporation and a partnership or a joint venture of which it is a member; or

(3) the corporation has filed with the Minister of Revenue a waiver in the prescribed form in accordance with subparagraph ii of paragraph *b* of subsection 2 of section 1010 of the Act before 21 April 2005, if the waiver is in force on that date and one of its subjects pertains to the deductibility, in computing the corporation’s assets, of an amount shown in its financial statements considering that it results from a transaction between the corporation and a partnership or a joint venture of which it is a member.

(5) If paragraph 1 of subsection 4 applies to a taxation year of a corporation, the Minister of Revenue shall, on application by the corporation on or before the day on which the time limits provided for in that paragraph 1 expire in relation to that taxation year or, if it is later, on 11 September 2006, make, under Part IV of the Act and despite sections 1010 to 1011 of the Act, such assessments or reassessments of the tax, interest and penalties payable by the corporation as are necessary to give effect to paragraph 3 of subsection 1. Sections 93.1.8 and 93.1.12 of the Act respecting the Ministère du Revenu

(R.S.Q., chapter M-31) apply, with the necessary modifications, to such assessments.

**220.** Section 1145 of the Act, amended by section 288 of chapter 1 of the statutes of 2005, is replaced by the following section:

“**1145.** Except where inconsistent with this Part, sections 6 and 17 to 21, the first paragraph of section 549, section 564 where it refers to the first paragraph of section 549 and sections 1000 to 1027 and 1037 to 1079.16 apply, with the necessary modifications, to this Part.”

**221.** Section 1159.7 of the Act, amended by section 289 of chapter 1 of the statutes of 2005, is again amended by replacing the first paragraph by the following paragraph:

“**1159.7.** Except where inconsistent with this Part, the first paragraph of section 549, section 564 where it refers to the first paragraph of section 549 and sections 1000 to 1027 and 1037 to 1079.16 apply, with the necessary modifications, to this Part.”

**222.** Section 1159.8 of the Act is amended by inserting “of the succession, the executor” after “the liquidator” in subparagraph *b* of the second paragraph.

**223.** Section 1175 of the Act, amended by section 292 of chapter 1 of the statutes of 2005, is replaced by the following section:

“**1175.** Except where inconsistent with this Part, the first paragraph of section 549, section 564 where it refers to the first paragraph of section 549 and sections 1000 to 1027 and 1037 to 1079.16 apply, with the necessary modifications, to this Part.”

**224.** Section 1175.19 of the Act, amended by section 294 of chapter 1 of the statutes of 2005, is replaced by the following section:

“**1175.19.** Except where inconsistent with this Part, sections 7.14, 11, 11.1, 11.3 and 17 to 21, the first paragraph of section 549, section 564 where it refers to the first paragraph of section 549 and sections 1000 to 1027, 1037 to 1079.16 and 1134 apply, with the necessary modifications, to this Part.”

**225.** Section 1175.19.2 of the Act, enacted by section 333 of chapter 38 of the statutes of 2005, is amended by striking out “un bénéfice ou un avantage” in subparagraph *b* of the second paragraph in the French text.

**226.** Section 1175.19.3 of the Act, enacted by section 333 of chapter 38 of the statutes of 2005, is replaced by the following section:

“**1175.19.3.** Except where inconsistent with this Part, sections 17 to 21, the first paragraph of section 549, section 564 where it refers to the first paragraph of section 549, sections 1000 to 1024, subparagraph *b* of the first

paragraph of section 1027 and sections 1037 to 1079.16 apply, with the necessary modifications, to this Part.”

**227.** (1) Section 1175.29 of the Act, enacted by section 261 of chapter 23 of the statutes of 2005 and amended by section 334 of chapter 38 of the statutes of 2005, is again amended by replacing the definition of “operator” in the first paragraph by the following definition:

““operator” means a person or partnership that operates or has operated a telecommunications or gas distribution system or an electric power production, transmission or distribution system certain immovables of which are immovables subject to tax;”.

(2) Subsection 1 applies from the calendar year 2005.

**228.** Section 1176 of the Act is amended by replacing paragraph *b* by the following paragraph:

“(b) “taxpayer” means any person or trust carrying on logging operations in Québec and includes, as the case may be, the liquidator of a succession, the executor, the trustee or the agent of the person or trust;”.

#### ACT RESPECTING THE MINISTÈRE DU REVENU

**229.** Section 17.3 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is amended by inserting “or 34.2” after “34.1” in subparagraph *l* of the first paragraph.

**230.** Section 17.5 of the Act is amended by inserting “or 34.2” after “34.1” in subparagraph *n* of the first paragraph.

**231.** (1) Section 30.3 of the Act is amended

(1) by replacing the portion before subparagraph *a* of the first paragraph by the following:

**“30.3.** If a person becomes bankrupt within the meaning of the Bankruptcy and Insolvency Act (Revised Statutes of Canada, 1985, chapter B-3) or files a proposal or notice of intention to file such a proposal under that Act or if an order is made in respect of the person in accordance with the Companies’ Creditors Arrangement Act (Revised Statutes of Canada, 1985, chapter C-36), the following rules apply:”;

(2) by replacing “or the date of filing of the proposal or notice of intention to file such a proposal” in subparagraphs *a* and *b* of the first paragraph and in the second paragraph by “, the date of filing of the proposal or notice of intention to file such a proposal or the date on which the order is made”.

(2) Subsection 1 applies in respect of a return or application filed after 22 June 2005.

**232.** The Act is amended by inserting the following section after section 34.1:

**“34.2.** No person may design, manufacture or install, sell, lease or otherwise make available to another person, update, maintain, upgrade, alter or service a computer program function or electronic component the use of which is prohibited by section 34.1, or in any way offer to install, sell, lease or otherwise make available to another person, update, maintain, upgrade, alter or service such a computer program function or electronic component.”

**233.** Section 38 of the Act is amended by replacing “or which may relate” in subparagraph *a* of the second paragraph by “, to the prohibition set out in section 34.2 or”.

**234.** The Act is amended by inserting the following section after section 60.1:

**“60.2.** A person is guilty of an offence and is liable to a fine of not less than \$25,000 nor more than \$500,000 and, for a subsequent offence within five years, to a fine of not less than \$100,000 nor more than \$1,000,000, if the person

(a) contravenes section 34.2; or

(b) conspires with another person to commit an offence under subparagraph *a*.

In addition to the fine of \$100,000 to \$1,000,000 prescribed in the first paragraph for a subsequent offence, the court may, despite article 231 of the Code of Penal Procedure (chapter C-25.1), sentence the offender to imprisonment for not more than two years.”

#### ACT RESPECTING THE RÉGIE DE L'ASSURANCE MALADIE DU QUÉBEC

**235.** (1) Section 37.4 of the Act respecting the Régie de l'assurance maladie du Québec (R.S.Q., chapter R-5), amended by section 271 of chapter 23 of the statutes of 2005, is again amended, in subparagraph *a* of the first paragraph,

(1) by replacing subparagraphs i to iv by the following subparagraphs:

“i. \$12,490 where, for the year, the individual has no eligible spouse and no dependent child,

“ii. \$20,250 where, for the year, the individual has no eligible spouse but has one dependent child,

“iii. \$23,055 where, for the year, the individual has no eligible spouse but has more than one dependent child,

“iv. \$20,250 where, for the year, the individual has an eligible spouse but has no dependent child, and”;

(2) by replacing subparagraphs 1 and 2 of subparagraph v by the following subparagraphs:

“(1) \$23,055 where the individual has one dependent child for the year, or

“(2) \$25,640 where the individual has more than one dependent child for the year; and”.

(2) Subsection 1 applies from the year 2005.

#### ACT RESPECTING QUÉBEC BUSINESS INVESTMENT COMPANIES

**236.** (1) Section 12 of the Act respecting Québec business investment companies (R.S.Q., chapter S-29.1) is amended by replacing the first paragraph by the following paragraph:

“**12.** An investment validated by Investissement Québec which is made before 13 June 2003 by a company whose paid-up capital in respect of its issued and outstanding common shares with full voting rights, held by natural persons, is not less than \$50,000, and which is a common share with full voting rights of the share capital of a qualified legal person that is acquired by a company as first purchaser, is a qualified investment.”

(2) Subsection 1 applies in respect of an investment made by a company after 12 June 2003, unless

(1) the investment was, in the opinion of Investissement Québec, part of a financial package under development on 12 June 2003;

(2) the investment was made on or before 31 December 2003; and

(3) one of the following applies in respect of the investment:

(a) an application for a receipt for the final prospectus or an application for an exemption from filing a prospectus was filed with the Commission des valeurs mobilières du Québec on 12 June 2003 in respect of a share issue of the company whose proceeds were used to make the investment, and the closing of the share issue occurred on or before 31 December 2003,

(b) a written application for registration of the company as a Québec business investment company was filed with Investissement Québec on 12 June 2003 or the company was already registered as such in relation to the investment, or

(c) according to Investissement Québec, more than 50% of the proceeds of the share issue of the company that were used to make the investment had already been received on its behalf on 12 June 2003.

#### ACT RESPECTING THE QUÉBEC SALES TAX

**237.** Section 336 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1) is repealed.

**238.** (1) Section 386 of the Act, amended by section 376 of chapter 38 of the statutes of 2005, is again amended by replacing subparagraph 4 of the first paragraph by the following subparagraph:

“(4) 51.5% for a hospital authority, a facility operator or an external supplier.”

(2) Subsection 1 has effect in respect of the tax that becomes payable after 31 March 2006 and is not paid before 1 April 2006.

**239.** Section 458.2 of the Act is amended by replacing “avise” in the portion before subparagraph 1 of the first paragraph in the French text by “doit aviser”.

**240.** Section 528 of the Act is amended by replacing “in prescribed form containing prescribed information, file the account with and as prescribed by the Minister, including the invoice or statement where necessary” in the portion before paragraph 1 by “by sending the invoice or statement, if any,”.

#### ACT TO AMEND THE TAXATION ACT, THE ACT RESPECTING THE QUÉBEC SALES TAX AND OTHER LEGISLATIVE PROVISIONS

**241.** (1) Section 551 of the Act to amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions (1995, chapter 63), amended by section 381 of chapter 14 of the statutes of 1997, by section 769 of chapter 85 of the statutes of 1997, by section 299 of chapter 39 of the statutes of 2000 and by section 351 of chapter 2 of the statutes of 2003, is again amended by replacing subparagraph 6 of the third paragraph by the following subparagraph:

“(6) the Autorité des marchés financiers or the Canadian Deposit Insurance Corporation;”.

(2) Subsection 1 has effect from 17 December 2004.

In addition, for the period from 1 February 2004 to 16 December 2004, subparagraph 6 of the third paragraph of section 551 of the Act reads as if “the Régie de l’assurance-dépôts du Québec” was replaced by “the Agence nationale d’encadrement du secteur financier”.

**BUDGET ACT GIVING EFFECT TO THE BUDGET SPEECH  
DELIVERED ON 21 APRIL 2005 AND TO CERTAIN OTHER  
BUDGET STATEMENTS**

**242.** (1) Section 217 of the Budget Act giving effect to the Budget Speech delivered on 21 April 2005 and to certain other budget statements (2005, chapter 38) is amended by replacing “*a*, *a.1* and *b*” in paragraph *b* of section 985.6 of the Taxation Act (R.S.Q., chapter I-3), enacted by subsection 2, by “*a* to *c*”.

(2) Subsection 1 has effect from 13 December 2005.

**243.** (1) Section 225 of the Act is amended by replacing “*a*, *a.1* and *b*” in section 985.21 of the Taxation Act (R.S.Q., chapter I-3), enacted by subsection 2, by “*a* to *c*”.

(2) Subsection 1 has effect from 13 December 2005.

**244.** (1) Section 283 of the Act is amended

(1) by replacing the portion before paragraph 1 by the following:

“**283.** (1) Section 1029.8.61.24 of the Act, enacted by section 257 of chapter 1 of the statutes of 2005, is amended”;

(2) by adding the following subsection at the end:

“(2) Subsection 1 applies from 1 January 2007. However, the third paragraph of section 1029.8.61.24 of the Act, as it read before being struck out, continues to have effect in respect of notices filed with the Minister of National Revenue that relate to situations existing prior to 1 January 2007.”

(2) Subsection 1 has effect from 13 December 2005.

**245.** (1) Section 284 of the Act is replaced by the following section:

“**284.** (1) Section 1029.8.61.26 of the Act, enacted by section 257 of chapter 1 of the statutes of 2005, is amended by inserting “or the registrar of civil status” after “information is communicated by the Minister” in the third paragraph.

(2) Subsection 1 applies from 1 January 2007.”

(2) Subsection 1 has effect from 13 December 2005.



**246.** (1) Section 412 of the Act is amended by striking out “, except sections 283 and 284, which come into force on the date to be set by the Government”.

(2) Subsection 1 has effect from 13 December 2005.

**247.** For the purposes of Division II.11.1 of Chapter III.1 of Title III of Book IX of Part I of the Taxation Act (R.S.Q., chapter I-3), if an individual who died before 1 September 2005 was registered, immediately before the individual’s death, with an authorized manager, within the meaning of the first paragraph of section 1029.8.61.1 of that Act, and, after the individual’s death, the individual’s legal representative paid, otherwise than by way of the authorized payment arrangement, within the meaning of the first paragraph of that section, an expenditure invoiced after the individual’s death or in the 30-day period ending on the day of the death for an eligible service, within the meaning of the first paragraph of that section, that was rendered to the individual before the individual’s death but after the individual attained the age of 70 years, the Minister of Revenue may, under Part I of that Act and despite sections 1010 to 1011 of that Act, determine or redetermine the amount deemed to have been paid under that Division II.11.1 by the individual for the taxation year in which the individual died, taking into account, in computing that amount, the expenditure so paid by the individual’s legal representative, as if it were an eligible expense, within the meaning of the first paragraph of section 1029.8.61.1 of that Act, and make any assessment or reassessment of the interest and penalties payable by the individual under Part I of that Act. Sections 93.1.8 and 93.1.12 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, with the necessary modifications, to such determinations or assessments.

**248.** This Act comes into force on 13 June 2006.