

# Gazette officielle du Québec

## Part 2 Laws and Regulations

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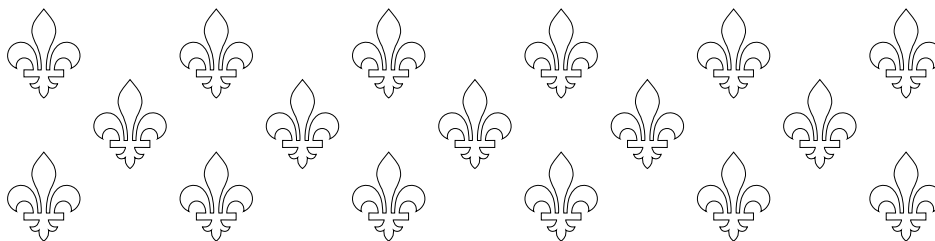
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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 29  
(2000, chapter 5)

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

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**Introduced 12 May 1999**  
**Passage in principle 26 May 1999**  
**Passage 11 May 2000**  
**Assented to 11 May 2000**

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**2000**

## EXPLANATORY NOTES

*The main object of this bill is to harmonize the fiscal legislation in Québec with that of Canada. It consequently gives effect primarily to various harmonization measures announced in the Budget Speeches delivered by the Minister of State for the Economy and Finance on 25 March 1997 and 31 March 1998.*

*The bill also gives effect to various measures contained in Information Bulletin 95-4 issued by the Ministère des Finances on 5 July 1995.*

*The bill amends the Mining Duties Act in concordance with the amendments made to the Taxation Act to extend the rules relating to mining reclamation trusts to other similar environmental trusts.*

*The bill amends the Taxation Act primarily to make amendments similar to various amendments made to the Canada Income Tax Act by federal Bill C-28 (S.C., 1998, chapter 19), assented to on 18 June 1998. In particular, the amendments concern*

*(1) registered education savings plans, to increase taxpayers' interest in this type of investment vehicle used to finance post-secondary education, in particular by allowing subscribers under the plan to withdraw accumulated income in certain circumstances;*

*(2) the implementation of a special tax on accumulated income payments under a registered education savings plan;*

*(3) the rules applicable to the various deferred income plans, in particular as regards transfers from one plan to another;*

*(4) the tax treatment of benefits paid to a taxpayer under a disability insurance plan so that there will be no change in the tax treatment if the insurer becomes insolvent and the employer continues the benefits;*

*(5) an extension of the list of recognized medical expenses for the purposes of the non-refundable tax credit for medical expenses and the implementation of a refundable tax credit for medical expenses that is intended to partially compensate for the loss of special benefits to a beneficiary of income security who enters the labour market;*

(6) *the introduction for cemetery care trusts of rules similar to those applicable to trusts governed by eligible funeral arrangements;*

(7) *an extension of the rules relating to mining reclamation trusts to other similar environmental trusts;*

(8) *the consolidation, improvement and standardization of the rules allowing for deferral of losses arising from certain transfers of property which involve affiliated persons;*

(9) *a tightening of certain rules devised to prevent abusive tax shelter promotion;*

(10) *an extension of the minimum replacement tax base to partnership losses attributed to limited partners and to certain dormant partners as well as to tax shelter losses;*

(11) *the rules relating to the methods of valuing inventory of a business;*

(12) *the rules relating to the tax exemption enjoyed by certain government bodies in order to clarify the scope of its application;*

(13) *certain rules of an administrative nature, in particular those relating to assessments, penalties, objections and appeals, to provide that the determination of certain amounts may be made at the partnership level; and*

(14) *various technical amendments, including consequential and terminology-related amendments.*

*The bill amends the Act respecting the Ministère du Revenu to reflect the amendments made to the Taxation Act as regards certain rules concerning partnerships and to make other amendments similar to various amendments made to the Canada Income Tax Act by federal Bill C-28. In particular, the amendments concern*

(1) *the Minister's power to print out any book, register or other document kept on a storage medium other than paper and that has been examined or obtained by the Minister or of which the Minister has taken possession, including during an audit;*

(2) *the creation of new offences for obtaining or attempting to obtain a refund or credit without being entitled to it or for conspiring to obtain such a refund or credit; and*

*(3) recognition of the probative force of a print-out made of a document whose original storage medium is not paper or microfilm.*

*The bill also amends other legislation to reflect certain amendments made to the Taxation Act.*

**LEGISLATION AMENDED BY THIS BILL :**

- Mining Duties Act (R.S.Q., chapter D-15);
- Taxation Act (R.S.Q., chapter I-3);
- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);
- Act to amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions (1995, chapter 1);
- Act to amend the Taxation Act and other legislative provisions (1997, chapter 31);
- Act to again amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions (1997, chapter 85).



## Bill 29

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

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

#### MINING DUTIES ACT

1. (1) Section 1 of the Mining Duties Act (R.S.Q., chapter D-15), amended by section 4 of chapter 83 of the statutes of 1999, is again amended

- (1) by striking out the definition of “mining reclamation trust”;
- (2) by inserting the following definition in alphabetical order:

““environmental trust” means an environmental trust, within the meaning of section 21.40 of the Taxation Act (chapter I-3) that is resident in Québec for the purposes of Part I of that Act;”.

(2) Paragraph 1 of subsection 1 has effect from 1 January 1998.

(3) Paragraph 2 of subsection 1 has effect from 13 May 1994. In addition, in the case of a trust that is referred to in subparagraph *j* of the second paragraph of section 21.40 of the Taxation Act (R.S.Q., chapter I-3), enacted by subsection 1 of section 21, the following rules apply :

(1) the trust is deemed, for the purposes of the Mining Duties Act, never to have been a mining reclamation trust; and

(2) notwithstanding sections 43 and 43.0.1 of the Mining Duties Act, the Minister of Natural Resources must, under that Act and on or before 31 December 2001, make any re-determination of the duties, interest and penalties and, if any, of the annual profit, annual loss, credit on duties, deferrable credit on duties, allowable amount, adjusted annual loss, credit on duties refundable for losses and credit on duties for losses, and make any reassessment that is necessary for a fiscal year to give effect to this subsection.

2. (1) Section 8 of the said Act, amended by section 5 of chapter 83 of the statutes of 1999, is again amended

- (1) by replacing subparagraph *d* of paragraph 1 by the following :

“(d) the lesser of the operator’s cumulative contributions account at the end of the fiscal year and the aggregate of all amounts each of which is an amount that relates to the reclamation of land that is a mining operation, and that is included, under paragraph *z* or *z.1* of section 87 of the Taxation Act (chapter I-3), in computing the operator’s income for the fiscal year for the purposes of that Act, in respect of an environmental trust under which the operator is a beneficiary;”;

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

“(k) the aggregate of all amounts each of which is an amount paid by the operator for the reclamation of land that is a mining operation, and that is deductible under paragraph *r* or *s* of section 157 of the Taxation Act in computing the operator’s income for the fiscal year for the purposes of that Act, in respect of an environmental trust under which the operator is a beneficiary.”

(2) Subsection 1 applies to fiscal years that end after 18 February 1997.

3. (1) Section 8.0.0.1 of the said Act is amended

(1) by replacing subparagraphs *a* to *c* of paragraph 1 by the following :

“(a) the aggregate of all amounts each of which is a contribution paid by the particular operator after 12 May 1994 and before that time to an environmental trust under which the particular operator is a beneficiary, for the reclamation of land that is a mining operation ;

“(b) the aggregate of all amounts each of which is the consideration paid by the particular operator after 12 May 1994 and before that time for the acquisition, from another person or partnership, of all or part of the particular operator’s interest as a beneficiary under an environmental trust maintained for the sole purpose of financing the reclamation of land that is a mining operation, other than consideration that is the assumption of a reclamation obligation in respect of the trust ;

“(c) the amount of the cumulative contributions account of an operator in respect of the environmental trust all or part of whose interest as a beneficiary is acquired by the particular operator as consideration for the assumption of a reclamation obligation, in respect of the trust, in relation to land that is a mining operation, determined immediately before the time of acquisition ; and” ;

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

“(b) the amount included in determining an operator’s cumulative contributions account, under subparagraph *c* of paragraph 1, because of the acquisition by the operator of all or part of the interest of the particular operator, as a beneficiary under an environmental trust.”

(2) Subsection 1 has effect from 19 February 1997.

#### TAXATION ACT

4. (1) Section 1 of the Taxation Act (R.S.Q., chapter I-3), amended by section 26 of chapter 83 of the statutes of 1999 and by section 75 of chapter 86 of the statutes of 1999, is again amended

(1) by inserting the following definition in alphabetical order :

““flow-through share” has the meaning assigned by section 359.1;”;

(2) by inserting the following definition in alphabetical order :

““majority interest partner” of a particular partnership at any time means a person or partnership, in paragraphs *a* and *b* referred to as the “taxpayer”,

(*a*) whose share of the particular partnership’s income from all sources for the fiscal period of the particular partnership that ended before that time or, if the particular partnership’s first fiscal period includes that time, for that fiscal period, would have exceeded 1/2 of the particular partnership’s income from all sources for that period if the taxpayer had held throughout that fiscal period each interest in the particular partnership that the taxpayer or a person affiliated with the taxpayer held at that time ; or

(*b*) whose share, together with the shares of every person with whom the taxpayer is affiliated, of the total amount that would be paid to all members of the particular partnership, otherwise than as a share of any income of the particular partnership, if it were wound up at that time exceeds 1/2 of that total amount;”;

(3) by replacing subparagraph iii of paragraph *b* of the definition of “specified tax consequence” by the following :

“iii. the corporation agreed in the calendar year preceding the particular calendar year to issue a flow-through share to a person or partnership;”;

(4) by replacing, in paragraph *e.1* of the definition of “cost amount”, the words “a mining reclamation trust” by the words “an environmental trust”;

(5) by striking out the definition of “mining reclamation trust”;

(6) by inserting the following definitions in alphabetical order :

““cemetery care trust” has the meaning assigned by section 979.19;

““environmental trust” has the meaning assigned by section 21.40;”;

(7) by replacing the definition of “registered retirement income fund” by the following :

““registered retirement income fund” means a fund accepted as such by the Minister of Revenue of Canada for the purposes of the Income Tax Act and the registration of which is in force;”;

(8) by replacing the definition of “mineral” by the following :

““mineral” includes ammonite gemstone, coal, calcium chloride, kaolin, bituminous sands, oil shale and silica, but does not include petroleum, natural gas or other related hydrocarbons;”;

(9) by replacing the definition of “person” by the following :

““person”, or any word or expression descriptive of a person, includes any corporation, and any entity exempt, because of Book VIII, from tax under this Part and the legal representatives of such a person, according to the law of that part of Canada to which the context extends;”;

(10) by replacing, in the English text, paragraph *b* of the definition of “home relocation loan” by the following :

“(b) the loan is used to acquire a dwelling, or a share of the capital stock of a housing cooperative acquired for the sole purpose of acquiring the right to inhabit a dwelling owned by the cooperative, where the dwelling is for the habitation of the individual and is the individual’s new residence;”;

(11) by replacing the definition of “scientific research and experimental development” by the following :

““scientific research and experimental development” has the meaning assigned by subsections 2 to 4 of section 222;”;

(12) by replacing the definition of “registered pension plan” by the following :

““registered pension plan” means a plan accepted as such by the Minister of Revenue of Canada for the purposes of the Income Tax Act and the registration of which is in force;”;

(13) by replacing, in the definition of “registered education savings plan”, “section 891” by “Title III of Book VII”;

(14) by replacing the definition of “registered retirement savings plan” by the following :

““registered retirement savings plan” means a plan accepted as such by the Minister of Revenue of Canada for the purposes of the Income Tax Act and the registration of which is in force;”;

(15) by inserting the following definition in alphabetical order :

““legal representative” of a taxpayer means a trustee in bankruptcy, an assignee, a receiver, a trustee, an heir, an administrator of the property of others, or any other like person, administering, winding up, controlling or otherwise dealing in a representative or fiduciary capacity with the property that belongs or belonged to, or that is or was held for the benefit of, the taxpayer or the taxpayer’s succession;”;

(16) by replacing paragraph *b* of the definition of “mineral resource” by the following:

“(b) ammonite gemstone, calcium chloride, diamond, gypsum, halite, kaolin or sylvite;”.

(2) Paragraph 1 of subsection 1 has effect from 1 December 1994.

(3) Paragraph 2 of subsection 1 has effect from 27 April 1995.

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

(5) Paragraph 4 of subsection 1 has effect from 1 January 1996.

(6) Paragraphs 5 and 13 of subsection 1 have effect from 1 January 1998.

(7) Paragraph 6 of subsection 1, where it enacts the definition of “environmental trust” in section 1 of the said Act, has effect from 1 January 1992 and, where it enacts the definition of “cemetery care trust” in that section 1, has effect from 1 January 1993.

(8) Paragraphs 8 and 16 of subsection 1 apply to taxation years or fiscal periods that begin after 31 December 1996. However,

(1) the application of the definition of “mineral” in section 1 of the said Act, enacted by paragraph 8 of subsection 1, and of paragraph *b* of the definition of “mineral resource” in that section 1, enacted by paragraph 16 of subsection 1, shall not result in a characterization of expenditures made or costs incurred in a taxation year or fiscal period that began before 1 January 1997 as a Canadian exploration expense, Canadian development expense, Canadian exploration and development expense or foreign exploration and development expense or an increase in any amount deductible under sections 360 and 361 of the said Act as a consequence of an expenditure made or cost incurred before 1 January 1997; and

(2) where, as a consequence of the application of the definition of “mineral” in section 1 of the said Act, enacted by paragraph 8 of subsection 1, and of paragraph *b* of the definition of “mineral resource” in that section 1, enacted by paragraph 16 of subsection 1, a person’s property would, but for this paragraph, be recharacterized as Canadian resource property or foreign resource property at the beginning of the person’s first taxation year or fiscal period that begins after 31 December 1996, for the purposes of the Act the property is deemed

(a) to have been disposed of by the person immediately before that time for proceeds of disposition equal to its cost amount to the person at that time, and

(b) to have been reacquired at that time by the person for the same amount.

(9) Paragraphs 9 and 15 of subsection 1 have effect from 18 June 1998.

(10) Paragraph 11 of subsection 1 applies in respect of work performed by a taxpayer after 27 February 1995, but, for the purposes of section 991 of the said Act, not in respect of such work performed pursuant to an agreement in writing made by the taxpayer before 28 February 1995.

5. (1) Section 2.2.1 of the said Act is amended, in the first paragraph,

(1) by replacing, in the portion before subparagraph *a*, the word “Part” by the word “Act”;

(2) by replacing subparagraph *a* by the following :

“(a) words referring to a spouse at any time of a taxpayer include the person of the opposite or the same sex who cohabits at that time with the taxpayer in a conjugal relationship and has so cohabited with the taxpayer throughout a 12-month period ending before that time, or would be the father or mother of a child of whom the taxpayer would be the father or mother if the definition of “child” in section 1 were read without reference to paragraph *c* thereof and section 2 were read without reference to the words “or a person who is the father or mother of the taxpayer’s spouse”;

(2) Paragraph 1 of subsection 1 has effect from 1 January 1998.

(3) Paragraph 2 of subsection 1 has effect from 1 January 1993. However, where subparagraph *a* of the first paragraph of section 2.2.1 of the said Act, enacted by that paragraph 2, applies before 16 June 1999, it shall be read with the words “of the opposite or the same sex” replaced by the words “of the opposite sex”.

6. (1) Section 2.2.2 of the said Act is repealed.

(2) Subsection 1 has effect from 18 June 1998. In addition, where section 2.2.2 of the said Act, repealed by subsection 1, applies after 31 December 1996, it shall be read without reference to “, paragraph *c* of section 894”.

7. (1) Section 2.3 of the said Act is amended

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

“2.3. Where a document has been issued or a contract has been entered into before 31 July 1997 purporting to create, to establish, to extinguish or to

be in substitution for, a taxpayer's right to an amount or amounts, immediately or in the future, out of or under a pension plan, the following rules apply :

(a) where the rights provided for in the document or contract are rights provided for by the pension plan or are rights to a payment or payments out of the pension plan, and the taxpayer acquired an interest under the document or contract before that date, any payment under the document or contract is deemed to be a payment out of or under the pension plan and the taxpayer is deemed not to have received, on the issuance of the document or the entering into the contract, an amount out of or under a pension plan ; and” ;

(2) by replacing, in the French text of paragraph *b*, the words “l'émission” by the words “la délivrance”.

(2) Subsection 1 has effect from 31 July 1997.

8. (1) Section 11.4 of the said Act is replaced by the following :

“11.4. For the purposes of this Part, where a trust resident in Canada would be an environmental trust at any time if it were resident at that time in the province in which the site to which the trust relates is situated, the trust is deemed to be resident at that time in that province and in no other province.”

(2) Subsection 1 has effect from 1 January 1996.

9. (1) Section 19 of the said Act is amended

(1) by replacing subsection 3 by the following :

“(3) Where there has been an amalgamation or merger of two or more particular corporations and the new corporation formed as a result of the amalgamation or merger would have been related to any of the particular corporations immediately before the amalgamation or merger if the new corporation were in existence at that time, and if the persons who were the shareholders of the new corporation immediately after the amalgamation or merger were the shareholders of the new corporation at that time, the new corporation and that particular corporation shall be deemed to have been related persons.” ;

(2) by adding, after subsection 3, the following subsection :

“(4) Where there has been an amalgamation or merger of two or more particular corporations each of which was related, otherwise than because of a right referred to in paragraph *b* of section 20, to each other immediately before the amalgamation or merger, the new corporation formed as a result of the amalgamation or merger and each of the particular corporations are deemed to have been related to each other.”

(2) Subsection 1 applies in respect of amalgamations and mergers that occur after 31 December 1996.

10. (1) Section 20 of the said Act is amended

(1) by replacing, in the French text, the portion before paragraph *a* by the following :

“20. Pour l’application des articles 19 et 21.19, les règles suivantes s’appliquent :”;

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

“(b) where at any time a person has a right under a contract or otherwise, either immediately or in the future and either absolutely or contingently,

i. to, or to acquire, shares of the capital stock of a corporation or to control the voting rights of such shares, the person is, except where the right is not exercisable at that time because the exercise thereof is contingent on the death, bankruptcy or permanent disability of an individual, deemed to have the same position in relation to the control of the corporation as if the person owned the shares at that time,

ii. to cause a corporation to redeem, acquire or cancel any shares of its capital stock owned by other shareholders of the corporation, the person is, except where the right is not exercisable at that time because the exercise thereof is contingent on the death, bankruptcy or permanent disability of an individual, deemed to have the same position in relation to the control of the corporation as if the shares were so redeemed, acquired or cancelled by the corporation at that time,

iii. to, or to acquire or control, voting rights in respect of shares of the capital stock of a corporation, the person is, except where the right is not exercisable at that time because its exercise is contingent on the death, bankruptcy or permanent disability of an individual, deemed to have the same position in relation to the control of the corporation as if the person could exercise the voting rights at that time, or

iv. to cause the reduction of voting rights in respect of shares, owned by other shareholders, of the capital stock of a corporation, the person is, except where the right is not exercisable at that time because its exercise is contingent on the death, bankruptcy or permanent disability of an individual, deemed to have the same position in relation to the control of the corporation as if the voting rights were so reduced at that time ; and”.

(2) Subsection 1 has effect from 27 April 1995.



11. (1) The said Act is amended by inserting, after section 21, the following :

**“CHAPTER IV.1**

**“AFFILIATED PERSONS**

“21.0.1. In this chapter,

“affiliated group of persons” means a group of persons each member of which is affiliated with every other member of the group ;

“controlled” means controlled, directly or indirectly in any manner whatever ;

“majority interest group of partners” of a partnership means a group of persons each of whom has an interest in the partnership such that

(a) if one person held the interests of all members of the group, that person would be a majority interest partner of the partnership ; and

(b) if any member of the group were not a member, the test described in paragraph *a* would not be met.

“21.0.2. For the purposes of this chapter, persons are affiliated with themselves, and a person includes a partnership.

“21.0.3. For the purposes of this Part, affiliated persons, or persons affiliated with each other, are

(a) an individual and a spouse of the individual ;

(b) a corporation and

i. a person by whom the corporation is controlled,

ii. each member of an affiliated group of persons by which the corporation is controlled, or

iii. a spouse of a person described in subparagraph i or ii ;

(c) two corporations, if

i. each corporation is controlled by a person, and the person by whom one corporation is controlled is affiliated with the person by whom the other corporation is controlled,

ii. one corporation is controlled by a person, the other corporation is controlled by a group of persons, and each member of that group is affiliated with that person, or

iii. each corporation is controlled by a group of persons, and each member of each group is affiliated with at least one member of the other group;

(d) a corporation and a partnership, if the corporation is controlled by a particular group of persons each member of which is affiliated with at least one member of a majority interest group of partners of the partnership, and each member of that majority interest group is affiliated with at least one member of the particular group of persons;

(e) a partnership and a majority interest partner of the partnership; and

(f) two partnerships, if

i. the same person is a majority interest partner of both partnerships,

ii. a majority interest partner of one partnership is affiliated with each member of a majority interest group of partners of the other partnership, or

iii. each member of a majority interest group of partners of each partnership is affiliated with at least one member of a majority interest group of partners of the other partnership.

“21.0.4. Where at any time two or more particular corporations amalgamate or merge to form a new corporation, the new corporation and the particular corporations are deemed to have been persons affiliated with each other where they would have been affiliated with each other immediately before that time if the new corporation had existed immediately before that time and the shareholders of the new corporation immediately after that time had been the shareholders of the new corporation immediately before that time.”

(2) Subsection 1 has effect from 27 April 1995.

12. (1) Section 21.1 of the said Act is amended

(1) by replacing the first paragraph by the following:

“21.1. Sections 21.2 to 21.3.1 apply in respect of the control of a corporation for the purposes of sections 6.2, 21.2 to 21.3.1, 83.0.3, 93.3.1, 93.4, 106.4, 175.9, 222 to 230.0.0.2, 237 to 238.1, 308.0.1 to 308.6, 384, 384.4, 384.5, 418.26 to 418.30 and 485 to 485.18, paragraph *d* of section 485.42, sections 564.2 to 564.4.2 and 727 to 737, paragraph *f* of section 772.13 and section 776.1.5.6.”;

(2) by replacing the third paragraph by the following:

“Section 21.4.1 applies in respect of the control of a corporation for the purposes of sections 6.2, 21.0.1 to 21.0.4, 83.0.3, 93.4, 222 to 230.0.0.2, 308.1, 384, 384.4, 384.5, 418.26 to 418.30 and 485 to 485.18, paragraph *d* of

section 485.42, subparagraph *d* of the third paragraph of section 559, sections 560.1.2 and 727 to 737, paragraph *f* of section 772.13 and section 776.1.5.6.”

(2) Subsection 1 has effect from 27 April 1995, except where paragraph 1 of that subsection strikes out, in the first paragraph of section 21.1 of the said Act, the reference to section 518.2 of the said Act, in which case subsection 1 applies in respect of dispositions that occur after 25 March 1997.

(3) In addition, where the third paragraph of section 21.1 of the said Act, replaced by paragraph 2 of subsection 1, applies between 21 February 1994 and 27 April 1995, that third paragraph shall be read with “and sections” replaced by “, subparagraph *d* of the third paragraph of section 559 and sections 560.1.2.”.

13. (1) Section 21.2 of the said Act is replaced by the following :

“21.2. Where two or more corporations, each of which is referred to in this section as a “predecessor corporation”, have amalgamated to form one corporate entity, in this section referred to as the “new corporation”, the following rules apply :

(a) control of a corporation is deemed not to have been acquired by any person or group of persons solely because of the amalgamation unless it is deemed under paragraph *b* or *c* to have been so acquired ;

(b) a person or group of persons that controls the new corporation immediately after the amalgamation and did not control a predecessor corporation immediately before the amalgamation is deemed to have acquired immediately before the amalgamation control of the predecessor corporation and of each corporation it controlled immediately before the amalgamation, unless the person or group of persons would not have acquired control of the predecessor corporation if the person or group of persons had acquired all the shares of the predecessor corporation immediately before the amalgamation ; and

(c) control of a predecessor corporation and of each corporation it controlled immediately before the amalgamation is deemed to have been acquired immediately before the amalgamation by a person or group of persons

i. unless the predecessor corporation was related, otherwise than because of a right referred to in paragraph *b* of section 20, immediately before the amalgamation to each other predecessor corporation,

ii. unless, if one person had immediately after the amalgamation acquired all the shares of the new corporation’s capital stock that the shareholders of the predecessor corporation, or of another predecessor corporation that controlled the predecessor corporation, acquired on the amalgamation in consideration for their shares of the predecessor corporation or of the other predecessor corporation, as the case may be, the person would have acquired control of the new corporation as a result of the acquisition of those shares, or

iii. unless this paragraph would, but for this subparagraph, deem control of each predecessor corporation to have been acquired on the amalgamation where the amalgamation is an amalgamation of

(1) two corporations, or

(2) two particular corporations and one or more other corporations that would, if all the shares of each other corporation's capital stock that were held immediately before the amalgamation by the particular corporations had been held by one person, have been controlled by that person."

(2) Subsection 1 applies in respect of

(1) an amalgamation that occurred between 31 December 1992 and 27 April 1995 where the corporate entity formed by the amalgamation so elects on or before 30 November 2000; and

(2) amalgamations that occur after 26 April 1995, other than an amalgamation that occurs pursuant to a written agreement entered into on or before that date where the corporate entity formed by the amalgamation so elects on or before 30 November 2000.

14. (1) The said Act is amended by inserting, after section 21.2, the following section:

"21.2.1. Subject to section 21.3, where two or more persons, in this section referred to as the "transferors", dispose of shares of the capital stock of a particular corporation in exchange for shares of the capital stock of another corporation, in this section referred to as the "acquiring corporation", control of the acquiring corporation and of each corporation controlled by it immediately before the exchange is deemed to have been acquired at the time of the exchange by a person or group of persons unless

(a) the particular corporation and the acquiring corporation were related, otherwise than because of a right referred to in paragraph *b* of section 20, to each other immediately before the exchange; or

(b) if all the shares of the acquiring corporation's capital stock that were acquired by the transferors on the exchange were acquired at the time of the exchange by one person, the person would not control the acquiring corporation."

(2) Subsection 1 applies in respect of exchanges that occur after 26 April 1995, other than an exchange that occurs pursuant to a written agreement entered into on or before that date.

15. (1) Section 21.3 of the said Act is amended

(1) by replacing, wherever they appear in the French text of paragraph *a*, the words "avec laquelle" by the words "à laquelle";

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

“(b) the cancellation or redemption at any particular time of, or a change at any particular time in the terms or conditions of, shares of the particular corporation or of a corporation controlling the particular corporation, where each person and each member of each group of persons that controls the particular corporation immediately after the particular time was related, otherwise than because of a right referred to in paragraph *b* of section 20, to the particular corporation

i. immediately before the particular time, or

ii. immediately before the death of a person, where the shares were held immediately before the particular time by a succession that acquired the shares because of the person’s death.”

(2) Paragraph 2 of subsection 1 applies from the taxation year 1994.

16. (1) The said Act is amended by inserting, after section 21.3, the following section :

“21.3.1. Where at a particular time shares of the capital stock of a particular corporation are disposed of to another corporation, in this section referred to as the “acquiring corporation”, for consideration that includes shares of the acquiring corporation’s capital stock, control of the particular corporation and of each corporation controlled by it immediately before that time is deemed not to have been acquired by the acquiring corporation solely because of the disposition if

(a) immediately after the particular time, the acquiring corporation and the particular corporation are controlled by a person or group of persons who controlled the particular corporation immediately before the particular time, and did not, as part of the series of transactions or events that includes the disposition, cease to control the acquiring corporation ; or

(b) all the shares of the particular corporation’s capital stock are disposed of to the acquiring corporation for consideration that consists solely of shares of the acquiring corporation’s capital stock and, immediately after the particular time,

i. the acquiring corporation is not controlled by any person or group of persons, and

ii. the fair market value of the shares of the capital stock of the particular corporation is not less than 95% of the fair market value of the aggregate of the assets of the acquiring corporation.”

(2) Subsection 1 has effect from 27 April 1995. However, where section 21.3.1 of the said Act, enacted by subsection 1, applies in respect of

acquisitions of shares that occur before 20 June 1996 or pursuant to a written agreement entered into before 20 June 1996, that section shall be read with subparagraph ii of paragraph *b* replaced by the following :

“ii. all or substantially all of the fair market value of the shares of the acquiring corporation’s capital stock is attributable to the shares acquired by it at the particular time.”

17. (1) Section 21.4 of the said Act is amended by replacing, in the French text of the first paragraph, the words “société et” by the words “société de personnes et”.

(2) Subsection 1 has effect from 1 May 1998.

18. (1) Section 21.4.1 of the said Act is amended

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

“21.4.1. A taxpayer who, at a particular time, acquires a right referred to in paragraph *b* of section 20 in respect of a share of the capital stock of a corporation is deemed to be in the same position in relation to the control of the corporation as if the right were immediate and absolute and as if the taxpayer had exercised the right at the particular time, where it can reasonably be concluded that one of the main purposes of the acquisition of the right is”;

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

“(b) to avoid the application of Chapter IV.1, any of sections 83.0.3, 93.4, 225, 308.1, 384.4, 384.5, 560.1.2 and 736, paragraph *a* or *b* of section 736.0.2 and section 736.0.3.1 ; or”.

(2) Subsection 1 has effect from 27 April 1995. In addition, where paragraph *b* of section 21.4.1 of the said Act, replaced by paragraph 2 of subsection 1, applies between 21 February 1994 and 27 April 1995, that paragraph *b* shall be read with “560.1.2,” inserted after “384.5,”.

19. (1) The said Act is amended by inserting, after section 21.4.1, the following section:

“21.4.1.1. For the purposes of sections 21.2 to 21.3.1 and 21.4.1, the following rules apply:

(a) a corporation incorporated without share capital is deemed to have a capital stock of a single class of shares ;

(b) each member, policyholder and other participant in the corporation is deemed to be a shareholder of the corporation ; and

(c) the membership, policy or other interest in the corporation of each of those participants is deemed to be the number of shares of the corporation's capital stock that the Minister considers reasonable in the circumstances, having regard to the total number of participants in the corporation and the nature of their participation.”

(2) Subsection 1 has effect from 27 April 1995.

20. (1) Chapter XIII of Title II of Book I of Part I of the said Act is repealed.

(2) Subsection 1 has effect from 1 January 1998.

21. (1) The said Act is amended by inserting, after section 21.39, the following :

#### “CHAPTER XIV

#### “ENVIRONMENTAL TRUST

“21.40. An environmental trust at any time means a trust resident in a province and maintained at that time for the sole purpose of funding the reclamation of a site in the province that is or has been used primarily for, or for any combination of, the operation of a mine, the extraction of clay, peat, sand, shale or aggregates, including dimension stone and gravel, or the deposit of waste where

(a) the maintenance of the trust is provided for, or may become provided for, pursuant to the terms of a contract entered into between the Government of Canada or of a province or pursuant to a law of Canada or the province and the contract was entered into or that law was enacted, as the case may be, on or before the later of 1 January 1996 and the day that is one year after the day on which the trust was created; and

(b) the trust is none of the trusts described in the second paragraph.

The trusts to which subparagraph *b* of the first paragraph refers are any of the following :

(a) a trust that relates at the time referred to in the first paragraph, in this paragraph referred to as the “particular time”, to the reclamation of a well;

(b) a trust that is not maintained at the particular time to secure the reclamation obligations of one or more persons or partnerships that are beneficiaries under the trust;

(c) a trust that at the particular time has a trustee other than the Government of Canada or of the province referred to in the first paragraph or a corporation resident in Canada that is licensed or otherwise authorized under the laws of

Canada or a province to carry on in Canada the business of offering to the public its services as trustee;

(d) a trust that borrows money at the particular time;

(e) a trust that acquires at the particular time any property that is not described in any of paragraphs *a*, *b* and *f* of the definition of “qualified investment” in section 204 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

(f) a trust to which the first contribution was made before 1 January 1992;

(g) a trust from which any amount was distributed before 23 February 1994;

(h) if the particular time is before 1 January 1998, a trust, other than a mining reclamation trust at that time,

i. to which the first contribution was made before 1 January 1996,

ii. from which no amount was distributed before 19 February 1997, or

iii. any interest in which was disposed of before 19 February 1997;

(i) a trust not resident in Québec that is not a qualifying environmental trust for the purposes of the Income Tax Act because of an election made by it to that effect in accordance with paragraph *i* of the definition of “qualifying environmental trust” in subsection 1 of section 248 of that Act;

(j) a trust resident in Québec that elected in a notice in writing filed with the Minister on or before 31 December 1999 or on or before 1 April of the year following the year in which the first contribution to the trust was made, not to be an environmental trust; and

(k) a trust that was, at any time before the particular time but during its existence, not an environmental trust.”

(2) Subsection 1 has effect from 1 January 1992. In addition, in the case of a trust that is referred to in subparagraph *i* or *j* of the second paragraph of section 21.40 of the said Act, enacted by subsection 1, the following rules apply:

(1) the trust is deemed, for the purposes of the said Act, never to have been a mining reclamation trust; and

(2) notwithstanding sections 1010 to 1011 of the said Act, the Minister of Revenue must, on or before 31 December 2001, make any assessment or reassessment of tax, interest and penalties under Part I of the said Act that is necessary for a taxation year to give effect to this subsection.



22. (1) The said Act is amended by inserting, after section 37.1, the following section :

“37.2. For the purposes of section 37, where an employer or former employer of an individual makes a top-up disability payment, within the meaning assigned by section 43.0.2, in respect of the individual, the payment is deemed not to be a benefit received or enjoyed by the individual.”

(2) Subsection 1 applies in respect of payments made after 10 August 1994.

23. (1) The said Act is amended by inserting, after section 43, the following sections :

“43.0.1. For the purposes of section 43, where an employer or former employer of an individual makes a top-up disability payment in respect of the individual, the following rules apply :

(a) the payment is deemed not to be a contribution made by the employer or former employer to or under the insurance plan of which the disability policy in respect of which the payment is made is or was a part ; and

(b) if the payment is made to the individual, it is deemed to be an amount received by the individual pursuant to the insurance plan referred to in paragraph *a*.

“43.0.2. In section 43.0.1 and in this section,

“disability policy” means a group disability insurance policy that provides for periodic payments to individuals in respect of the loss of remuneration from an office or employment ;

“top-up disability payment” in respect of an individual means a payment made by an employer or former employer of the individual as a consequence of the insolvency of an insurer that was obligated to make payments to the individual under a disability policy where

(a) the payment is made to an insurer so that periodic payments made to the individual under the disability policy will not be reduced because of the insolvency, or will be reduced by a lesser amount ; or

(b) the payment is made to the individual to replace, in whole or in part, periodic payments that would have been made under the disability policy to the individual but for the insolvency and the payment is made under an arrangement by which the individual is required to reimburse the payment to the extent that the individual subsequently receives an amount from an insurer in respect of the portion of the periodic payments that the payment was intended to replace.

For the purposes of paragraphs *a* and *b* of the definition of “top-up disability payment” in the first paragraph, an insurance policy that replaces a disability policy is deemed to be the same policy as, and a continuation of, the disability policy that was replaced.”

(2) Subsection 1 applies in respect of payments made after 10 August 1994.

24. (1) Section 78.1 of the said Act, amended by section 29 of chapter 83 of the statutes of 1999, is again amended by replacing the first paragraph by the following:

“78.1. An individual may deduct an amount paid by or on behalf of the individual in the year pursuant to an arrangement, other than an arrangement described in paragraph *b* of the definition of “top-up disability payment” in the first paragraph of section 43.0.2, under which the individual is required to reimburse any amount paid to the individual for a period throughout which the individual did not perform the duties of the individual’s office or employment, to the extent that the amount so paid to the individual for the period was included in computing the individual’s income for the year from an office or employment.”

(2) Subsection 1 applies in respect of arrangements entered into after 10 August 1994. However, where the first paragraph of section 78.1 of the said Act, enacted by subsection 1, applies in respect of reimbursements made in a taxation year preceding the taxation year 1998, it shall be read without reference to the words “for the year” after the words “the individual’s income”.

25. (1) The said Act is amended by inserting, after section 78.1, the following section:

“78.1.1. An individual may deduct the amount determined in respect of the individual for the year under the second paragraph where, as a consequence of the receipt of an amount, in this section referred to as the “deferred amount”, from an insurer, an amount is reimbursed by or on behalf of the individual to an employer or former employer of the individual pursuant to an arrangement described in paragraph *b* of the definition of “top-up disability payment” in the first paragraph of section 43.0.2, and the reimbursement is made

(*a*) in the year, other than within the first 60 days of the year if the deferred amount was received in the preceding taxation year; or

(*b*) within 60 days after the end of the year, if the deferred amount was received in the year.

The amount to which the first paragraph refers in respect of an individual for the year is the lesser of

(a) the amount included under section 43 in respect of the deferred amount in computing the individual's income for any taxation year; and

(b) the amount of the reimbursement referred to in the first paragraph in respect of the individual for the year.”

(2) Subsection 1 applies in respect of amounts reimbursed after 10 August 1994.

26. (1) Section 83 of the said Act is replaced by the following:

“83. For the purpose of computing a taxpayer's income for a taxation year from a business that is not an adventure or concern in the nature of trade, property described in an inventory shall be valued at the end of the year at the cost at which the taxpayer acquired the property or its fair market value at the end of the year, whichever is lower, or in a prescribed manner.”

(2) Subsection 1 applies to taxation years that end after 20 December 1995. In addition, it applies, in respect of a business that is an adventure or concern in the nature of trade,

(1) to taxation years of a taxpayer that end before 21 December 1995, except where

(a) the taxpayer's filing-due date for the year is after 20 December 1995, or

(b) the taxpayer has valued the inventory of the business for the purpose of computing income for the year from the business at an amount that is less than the cost at which the taxpayer acquired the property, which valuation has been taken into account in a fiscal return filed under Part I of the said Act before 21 December 1995 or has been the subject of a notice of objection served on the Minister of Revenue or a notice of appeal filed before that date; and

(2) to fiscal periods of a partnership that end before 21 December 1995, except where

(a) the filing-due dates of all of the members of the partnership for their taxation years that include the end of the fiscal period are after 20 December 1995, or

(b) the partnership has valued the inventory of the business for the purpose of computing income for the fiscal period from the business at an amount that is less than the cost at which the partnership acquired the property, which valuation has been taken into account in a fiscal return filed under Part I of the said Act before 21 December 1995 by any member of the partnership or has been the subject of a notice of objection served on the Minister of Revenue or a notice of appeal filed before that date by any member of the partnership.

27. (1) The said Act is amended by inserting, after section 83, the following sections:

“83.0.1. For the purpose of computing a taxpayer’s income from a business that is an adventure or concern in the nature of trade, property described in an inventory shall be valued at the cost at which the taxpayer acquired the property.

“83.0.2. Where, at the end of a taxpayer’s taxation year that is the last year in which property described in an inventory of a business that is an adventure or concern in the nature of trade was valued in accordance with section 83, the property was valued at an amount that is less than the cost at which the taxpayer acquired the property, after that time the cost to the taxpayer at which the property was acquired is, subject to section 83.0.3, deemed to be equal to that amount.

“83.0.3. Notwithstanding section 83.0.1, property described in an inventory of a corporation’s business that is an adventure or concern in the nature of trade at the end of the corporation’s taxation year that ends immediately before the time at which control of the corporation is acquired by a person or group of persons shall be valued at the cost at which the corporation acquired the property, or its fair market value at the end of the year, whichever is lower, and, after that time, the cost at which the corporation acquired the property is deemed to be equal to that lower amount.”

(2) Subsection 1 applies to taxation years that end after 20 December 1995. In addition, it applies, in respect of a business that is an adventure or concern in the nature of trade,

(1) to taxation years of a taxpayer that end before 21 December 1995, except where

(a) the taxpayer’s filing-due date for the year is after 20 December 1995, or

(b) the taxpayer has valued the inventory of the business for the purpose of computing income for the year from the business at an amount that is less than the cost at which the taxpayer acquired the property, which valuation has been taken into account in a fiscal return filed under Part I of the said Act before 21 December 1995 or has been the subject of a notice of objection served on the Minister of Revenue or a notice of appeal filed before that date; and

(2) to fiscal periods of a partnership that end before 21 December 1995, except where

(a) the filing-due dates of all of the members of the partnership for their taxation years that include the end of the fiscal period are after 20 December 1995, or

(b) the partnership has valued the inventory of the business for the purpose of computing income for the fiscal period from the business at an amount that is less than the cost at which the partnership acquired the property, which valuation has been taken into account in a fiscal return filed under Part I of the said Act before 21 December 1995 by any member of the partnership or has been the subject of a notice of objection served on the Minister of Revenue or a notice of appeal filed before that date by any member of the partnership.

28. (1) Section 83.1 of the said Act is replaced by the following :

“83.1. For the purposes of sections 83, 83.0.1 and 83.0.3, where land is described in an inventory of a business of a taxpayer, the cost at which the taxpayer acquired the land shall include each amount that

(a) is the amount of an expense referred to in the first paragraph of section 164, in respect of the land and for which no deduction is permitted to the taxpayer, or to another person or partnership that is

i. a person or partnership with whom or with which the taxpayer does not deal at arm’s length,

ii. if the taxpayer is a corporation, a person or partnership that is a specified shareholder of the taxpayer, or

iii. if the taxpayer is a partnership, a person or partnership whose share of any income or loss of the taxpayer is 10% or more; and

(b) is not included in or added to the cost to that other person or partnership of any property otherwise than because of paragraph e.1 of section 255 or subparagraph xi of paragraph i of that section.”

(2) Subsection 1 applies to taxation years that end after 20 December 1995. In addition, it applies, in respect of a business that is an adventure or concern in the nature of trade,

(1) to taxation years of a taxpayer that end before 21 December 1995, except where

(a) the taxpayer’s filing-due date for the year is after 20 December 1995, or

(b) the taxpayer has valued the inventory of the business for the purpose of computing income for the year from the business at an amount that is less than the cost at which the taxpayer acquired the property, which valuation has been taken into account in a fiscal return filed under Part I of the said Act before 21 December 1995 or has been the subject of a notice of objection served on the Minister of Revenue or a notice of appeal filed before that date; and

(2) to fiscal periods of a partnership that end before 21 December 1995, except where

(a) the filing-due dates of all of the members of the partnership for their taxation years that include the end of the fiscal period are after 20 December 1995, or

(b) the partnership has valued the inventory of the business for the purpose of computing income for the fiscal period from the business at an amount that is less than the cost at which the partnership acquired the property, which valuation has been taken into account in a fiscal return filed under Part I of the said Act before 21 December 1995 by any member of the partnership or has been the subject of a notice of objection served on the Minister of Revenue or a notice of appeal filed before that date by any member of the partnership.

29. (1) Section 84.1 of the said Act is replaced by the following :

“84.1. Where property described in an inventory of a taxpayer’s business that is not an adventure or concern in the nature of trade is valued at the end of a taxation year in accordance with a method permitted under sections 83 to 85.6, that method shall, subject to section 85.5, be used in the valuation of property described in the inventory of that business at the end of the following taxation year for the purpose of computing the taxpayer’s income from the business unless the taxpayer, with the concurrence of the Minister and on any terms and conditions that are specified by the Minister, adopts another method permitted under those sections.”

(2) Subsection 1 applies to taxation years that end after 20 December 1995. In addition, it applies, in respect of a business that is an adventure or concern in the nature of trade,

(1) to taxation years of a taxpayer that end before 21 December 1995, except where

(a) the taxpayer’s filing-due date for the year is after 20 December 1995, or

(b) the taxpayer has valued the inventory of the business for the purpose of computing income for the year from the business at an amount that is less than the cost at which the taxpayer acquired the property, which valuation has been taken into account in a fiscal return filed under Part I of the said Act before 21 December 1995 or has been the subject of a notice of objection served on the Minister of Revenue or a notice of appeal filed before that date ; and

(2) to fiscal periods of a partnership that end before 21 December 1995, except where

(a) the filing-due dates of all of the members of the partnership for their taxation years that include the end of the fiscal period are after 20 December 1995, or

(b) the partnership has valued the inventory of the business for the purpose of computing income for the fiscal period from the business at an amount that

is less than the cost at which the partnership acquired the property, which valuation has been taken into account in a fiscal return filed under Part I of the said Act before 21 December 1995 by any member of the partnership or has been the subject of a notice of objection served on the Minister of Revenue or a notice of appeal filed before that date by any member of the partnership.

30. (1) Section 87 of the said Act, amended by section 30 of chapter 83 of the statutes of 1999, is again amended by replacing paragraphs *z* to *z.2* by the following :

“(z) any amount received by the taxpayer in the year as a beneficiary under an environmental trust, whether or not the amount is included because of section 692.1 in computing the taxpayer’s income for any taxation year ;

“(z.1) the consideration received by the taxpayer in the year for the disposition to another person or partnership of all or part of the taxpayer’s interest as a beneficiary under an environmental trust, other than consideration that is the assumption of a reclamation obligation in respect of the trust ;

“(z.2) any amount required because of section 485.13 to be included in computing the taxpayer’s income for the year ;”.

(2) Subsection 1, where it enacts paragraphs *z* and *z.1* of section 87 of the said Act, applies to taxation years that end after 18 February 1997.

(3) Subsection 1, where it enacts paragraph *z.2* of section 87 of the said Act, applies to taxation years that end after 21 February 1994.

31. (1) Sections 93.1 to 93.3 of the said Act are replaced by the following :

“93.1. For the purposes of subparagraph iv of paragraph *e* of section 93 and of Title IV, sections 93.2 and 93.3 apply, notwithstanding sections 99 and 251, where at any particular time in a taxation year a taxpayer disposes of a building of a prescribed class and the proceeds of disposition of the building determined without reference to this section and sections 93.2 to 93.3.1 are less than the lesser of the cost amount and the capital cost to the taxpayer of the building immediately before the disposition.

“93.2. Where in the taxation year referred to in section 93.1 the taxpayer or a person with whom the taxpayer does not deal at arm’s length disposes of the land subjacent to, or immediately contiguous to and necessary for the use of, the building, the following rules apply :

(a) the proceeds of disposition of the building are deemed to be equal to the lesser of

i. the amount by which the aggregate of the fair market value of the building at the particular time referred to in section 93.1 and the fair market value of the land immediately before its disposition exceeds the lesser of

- (1) the fair market value of the land immediately before its disposition, and
- (2) the amount by which the cost amount to the vendor of the land, determined without reference to this section and sections 93.1 and 93.3, exceeds the aggregate of the capital gains, determined without reference to subparagraph *b* of the first paragraph and the second paragraph of section 234, in respect of dispositions of the land within three years before the particular time by the taxpayer or by a person with whom the taxpayer was not dealing at arm's length to the taxpayer or to another person with whom the taxpayer was not dealing at arm's length, and
  - ii. the greater of the fair market value of the building at the particular time and the lesser of the cost amount and the capital cost to the taxpayer of the building immediately before its disposition ;
- (*b*) notwithstanding any other provision of this Part, the proceeds of disposition of the land are deemed to be equal to the amount by which the aggregate of the proceeds of disposition of the building and of the land determined without reference to this section and sections 93.1, 93.3 and 93.3.1 exceeds the proceeds of disposition of the building as determined under paragraph *a* ; and
- (*c*) the cost to the purchaser of the land shall be determined without reference to this section and sections 93.1 and 93.3.

“93.3. Where section 93.2 does not apply with respect to the disposition referred to in section 93.1 and, before the disposition, the taxpayer or a person with whom the taxpayer did not deal at arm's length owned the land adjacent to, or immediately contiguous to and necessary for the use of, the building, the proceeds of disposition of the building are deemed to be equal to the aggregate of the proceeds of disposition of the building determined without reference to this section and sections 93.1, 93.2 and 93.3.1, and 1/4 of the amount by which the greater of the cost amount to the taxpayer of the building immediately before its disposition and the fair market value of the building immediately before its disposition exceeds the proceeds of disposition of the building determined without reference to this section and sections 93.1, 93.2 and 93.3.1.”

(2) Subject to section 307, subsection 1 applies in respect of dispositions of property that occur after 26 April 1995.

32. (1) The said Act is amended by inserting, after section 93.3, the following section :

“93.3.1. The rules in the second paragraph apply where

(*a*) a corporation, trust or partnership, in this section referred to as the “transferor”, disposes at a particular time, otherwise than in a disposition



described in any of paragraphs *a* to *e* of section 238, of a particular depreciable property of a particular prescribed class of the transferor ;

(*b*) the lesser of the following amounts exceeds the amount that would otherwise be the transferor's proceeds of disposition of the particular property at the particular time :

- i. the capital cost to the transferor of the particular property, and
- ii. the proportion of the undepreciated capital cost to the transferor of all property of the particular class immediately before the particular time that the fair market value of the particular property at the particular time is of the fair market value of all property of the particular class immediately before the particular time ; and

(*c*) on the thirtieth day after the particular time, a particular person or partnership, who is the transferor or a person affiliated with the transferor, owns or has a right to acquire the particular property, other than a right, as security only, derived from a mortgage, agreement of sale or similar obligation.

The rules to which the first paragraph refers are as follows :

(*a*) sections 518 to 533 and 614 to 617 do not apply in respect of the disposition of the particular property ;

(*b*) for the purpose of applying this division, sections 130 and 130.1 and any regulations made for the purposes of paragraph *a* of section 130 in respect of the transferor for taxation years that end after the particular time,

i. the transferor is deemed to have disposed of the particular property for proceeds of disposition equal to the lesser of the amounts determined in subparagraphs i and ii of subparagraph *b* of the first paragraph with respect to the particular property,

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

iii. the transferor is deemed to own a property that was acquired before the beginning of the taxation year that includes the particular time at a capital cost equal to the amount of the excess described in subparagraph *b* of the first paragraph with respect to the particular property, and that is property of the particular class, until the time that is immediately before the first time, after the particular time,

(1) at which a 30-day period begins throughout which neither the transferor nor a person affiliated with the transferor owns or has a right to acquire the

particular property, other than a right, as security only, derived from a mortgage, agreement of sale or similar obligation,

(2) at which the particular property is not used by the transferor or a person affiliated with the transferor for the purpose of earning income and is used for another purpose,

(3) at which the particular property would, if it were owned by the transferor, be deemed under section 785.1, 785.2 or 999.1 to have been disposed of by the transferor,

(4) that is immediately before control of the transferor is acquired by a person or group of persons, where the transferor is a corporation, or

(5) at which the winding-up of the transferor begins, other than a winding-up referred to in section 556, where the transferor is a corporation, and

iv. the property described in subparagraph iii is considered to have become available for use by the transferor at the time at which the particular property is considered to have become available for use by the particular person or partnership referred to in subparagraph *c* of the first paragraph;

(c) for the purposes of subparagraphs iii and iv of subparagraph *b*, where a partnership otherwise ceases to exist at any time after the particular time,

i. the partnership is deemed not to have ceased to exist until the time that is immediately after the first time described in subparagraphs 1 to 5 of subparagraph iii of subparagraph *b*, and

ii. each person who was a member of the partnership immediately before the partnership would, but for this subparagraph *c*, have ceased to exist is deemed to remain a member of the partnership, until the time that is immediately after the first time described in subparagraphs 1 to 5 of subparagraph iii of subparagraph *b*; and

(d) for the purpose of applying this division, sections 130 and 130.1 and any regulations made for the purposes of paragraph *a* of section 130 in respect of the particular person or partnership referred to in subparagraph *c* of the first paragraph,

i. that person's or partnership's capital cost of the particular property is deemed to be equal to the amount that was the transferor's capital cost of that property, and

ii. the amount by which the transferor's capital cost of the particular property exceeds its fair market value at the particular time is deemed to have been allowed as depreciation to the particular person or partnership in respect of property of the prescribed class that includes that property for taxation years ending before the particular time."

(2) Subject to section 307, subsection 1 applies in respect of dispositions of property that occur after 26 April 1995. However, where a property is disposed of between 26 April 1995 and 20 June 1996 and the person, trust or partnership that disposes of the property makes an election in writing which must be filed with the Minister of Revenue on or before 31 August 2000, the portion of subparagraph iii of subparagraph *b* of the second paragraph of section 93.3.1 of the said Act before subparagraph 1, enacted by subsection 1, shall be read with “a separate prescribed class that is the same as” inserted after “that is property of”.

33. (1) Sections 93.4 and 93.5 of the said Act are replaced by the following :

“93.4. For the purposes of subparagraph i of paragraph *e* of section 93, where control of a corporation has been acquired at a particular time by a person or group of persons and, within the 12-month period that ended immediately before that time, the corporation or a partnership of which it was a majority interest partner acquired depreciable property that was not used, or acquired for use, by the corporation or partnership in a business that was carried on by it immediately before the 12-month period began,

(*a*) the property is, subject to subparagraph *b*, deemed to have been acquired by the corporation or partnership immediately after the particular time and not to have been acquired by it before the particular time; and

(*b*) where the property was disposed of by the corporation or partnership before the particular time and was not reacquired by it before that time, the property is deemed to have been acquired by the corporation or partnership immediately before the property was disposed of.

However, the first paragraph does not apply in the case of an acquisition of property that was owned by the corporation or partnership or by a person that would, but for the definition of “controlled” in section 21.0.1, have been affiliated with the corporation throughout the period that began immediately before the 12-month period referred to in the first paragraph began and ended at the time the property was acquired by the corporation or partnership.

“93.5. For the purposes of section 93.4, where a corporation referred to in that section was incorporated or otherwise formed in the 12-month period, the corporation is deemed to have been

(*a*) in existence throughout the period that began immediately before the 12-month period and ended immediately after it was incorporated or otherwise formed; and

(*b*) affiliated, throughout the period referred to in paragraph *a*, with every person with whom it was affiliated, otherwise than because of a right referred to in paragraph *b* of section 20, throughout the period that began when it was incorporated or otherwise formed and ended immediately before its control is acquired.”

(2) Subsection 1 applies in respect of acquisitions of control that occur after 26 April 1995.

34. (1) Section 99 of the said Act is amended by replacing the portion of paragraph *d.2* before subparagraph *i* by the following:

“(d.2) where a corporation is deemed under subparagraph *c* of the second paragraph of section 736 to have disposed of and reacquired depreciable property, other than a timber resource property, the capital cost to the corporation of the property at the time of the reacquisition is deemed to be the amount that is equal to the aggregate of”.

(2) Subsection 1 has effect from 27 April 1995.

35. (1) Section 105 of the said Act is amended by replacing subparagraph *ii* of paragraph *a* by the following:

“ii. the amount determined by the formula in section 105.2 shall be included in computing the taxpayer’s income from the business for the year; and”.

(2) Subsection 1 applies to fiscal periods that end after 22 February 1994, otherwise than solely because of an election under subsection 1 of section 190 of the said Act.

36. (1) The said Act is amended by inserting, after section 105.2, the following section:

“105.3. For the purposes of Title VI.5 of Book IV and of paragraph *b* of section 28 as it applies for the purposes of that Title, an amount included under subparagraph *ii* of paragraph *a* of section 105 in computing a taxpayer’s income for a particular taxation year from a business is deemed to be a taxable capital gain of the taxpayer for the year from the disposition in the year of qualified farm property, within the meaning of section 726.6, to the extent of the lesser of

(a) the amount included under subparagraph *ii* of paragraph *a* of section 105 in computing the taxpayer’s income for the particular year from the business; and

(b) the amount determined by the formula

$A - B$ .

In the formula provided for in subparagraph *b* of the first paragraph,

(a) *A* is  $\frac{3}{4}$  of the amount determined in respect of the taxpayer for the particular year equal to the amount by which

i. the aggregate of all amounts each of which is the taxpayer's proceeds from a disposition in the particular year or a preceding taxation year that begins after 31 December 1987 of an intangible capital property in respect of the business that, at the time of disposition, was a qualified farm property of the taxpayer, exceeds

ii. the aggregate of all amounts each of which is

(1) an intangible capital amount of the taxpayer in respect of the business payable or disbursed in relation to a qualified farm property disposed of by the taxpayer in the particular year or a preceding taxation year that begins after 31 December 1987, or

(2) an outlay or expense of the taxpayer that was not deductible in computing the taxpayer's income and was made or incurred for the purpose of making a disposition referred to in subparagraph i; and

(b) B is the aggregate of all amounts each of which is

i. that portion of an amount deemed under subparagraph ii of paragraph *a* of section 105, as it applied in respect of the business to a fiscal period that begins after 31 December 1987 and ends before 23 February 1994, to be a taxable capital gain of the taxpayer that may reasonably be attributed to a disposition of a qualified farm property of the taxpayer, or

ii. an amount deemed under this division to be a taxable capital gain of the taxpayer for a taxation year preceding the particular year from the disposition of qualified farm property of the taxpayer.”

(2) Subsection 1 applies to fiscal periods that end after 22 February 1994, otherwise than solely because of an election under subsection 1 of section 190 of the said Act.

37. (1) The said Act is amended by inserting, after section 106.3, the following section:

“106.4. The rules in the second paragraph apply where

(a) a corporation, trust or partnership, in this section referred to as the “transferor”, disposes of a particular intangible capital property in respect of a business of the transferor in respect of which it would, but for this section, be permitted a deduction under paragraph *a* of section 188 as a consequence of the disposition;

(b) during the period that begins 30 days before and ends 30 days after the time of disposition, the transferor or a person affiliated with the transferor acquires a property, in this section referred to as the “substituted property”, that is, or is identical to, the particular intangible capital property; and

(c) at the end of the 30 days following the time of disposition, the transferor or a person or partnership affiliated with the transferor owns the substituted property.

The rules to which the first paragraph refers are as follows :

(a) for the purposes of this division and sections 130, 188 and 189, the transferor is deemed to continue to own intangible capital property in respect of the business until the particular time that is immediately before the first time, after the time of disposition,

i. at which a 30-day period begins throughout which neither the transferor nor a person affiliated with the transferor owns the substituted property, or a property that is identical to the substituted property and that was acquired after the day that is 31 days before the period begins,

ii. at which the substituted property is not intangible capital property in respect of a business carried on by the transferor or a person affiliated with the transferor,

iii. at which the substituted property would, if it were owned by the transferor, be deemed under section 785.1, 785.2 or 999.1 to have been disposed of by the transferor,

iv. that is immediately before control of the transferor is acquired by a person or group of persons, where the transferor is a corporation, or

v. at which the winding-up of the transferor begins, other than a winding-up referred to in section 556, where the transferor is a corporation ;

(b) for the purposes of this division and sections 130, 188 and 189, the transferor is deemed not to have ceased to carry on the business before the particular time referred to in subparagraph *a*; and

(c) for the purposes of the first paragraph and subparagraphs *a* and *b*,

i. a right to acquire a property, other than a right, as security only, derived from a mortgage, agreement of sale or similar obligation, is deemed to be a property that is identical to the property, and

ii. where a partnership otherwise ceases to exist at any time after the time of disposition,

(1) the partnership is deemed not to have ceased to exist until the time that is immediately after the first time described in subparagraphs i to v of subparagraph *a*, and

(2) each person who, immediately before the partnership would, but for this subparagraph ii, have ceased to exist, was a member of the partnership is

deemed to remain a member of the partnership, until the time that is immediately after the first time described in subparagraphs i to v of subparagraph *a*.”

(2) Subject to section 307, subsection 1 applies in respect of dispositions of property that occur after 26 April 1995.

38. (1) Section 114 of the said Act, amended by section 34 of chapter 83 of the statutes of 1999, is again amended

(1) by replacing, in the second paragraph, the portion before subparagraph *a* by the following :

“Section 113 does not apply if the conditions set out in the third paragraph are met and the loan was made or the indebtedness arose”;

(2) by replacing, in subparagraph *a* of the second paragraph, the words “an automobile” by the words “a motor vehicle”;

(3) by inserting, after subparagraph *a* of the second paragraph, the following subparagraph :

“(a.1) in respect of a person who is an individual and an employee of the lender or creditor but not a specified employee of the lender or creditor;”;

(4) by replacing, in the English text, subparagraph *c* of the second paragraph by the following :

“(c) in respect of a person who is an employee of the lender or creditor or who is the spouse of an employee of the lender or creditor to enable or assist the person to acquire a dwelling or a share of the capital stock of a housing cooperative acquired for the sole purpose of acquiring the right to inhabit a dwelling owned by the cooperative, where the dwelling is for the person’s habitation.”;

(5) by adding, after the second paragraph, the following paragraph :

“The conditions to which the second paragraph refers are as follows :

(a) at the time the loan was made or the indebtedness arose, *bona fide* arrangements were made for repayment of the loan or debt within a reasonable time; and

(b) it is reasonable to conclude that the employee or the employee’s spouse received the loan, or became indebted, because of the employee’s employment and not because of any person’s share-holdings.”

(2) Paragraphs 1 and 5 of subsection 1 apply in respect of loans made or indebtedness arising after 25 April 1995.

(3) Paragraphs 2 and 3 of subsection 1 apply in respect of loans made or indebtedness arising in a taxation year that ends after 31 December 1989.

39. (1) The said Act is amended by inserting, after section 114, the following section:

“114.1. Section 113 does not apply to a loan made or a debt that arose in respect of a trust where

(a) the lender or creditor is a private corporation;

(b) the corporation is the settlor and sole beneficiary of the trust;

(c) the sole purpose of the trust is to facilitate the purchase and sale of the shares of the corporation, or of another corporation related to the corporation, for an amount equal to their fair market value at the time of the purchase or sale, as the case may be, from or to the employees of the corporation or of the related corporation, other than employees who are specified employees of the corporation or of another corporation related to the corporation, as the case may be; and

(d) at the time the loan was made or the indebtedness arose, *bona fide* arrangements were made for repayment of the loan or debt within a reasonable time.”

(2) Subsection 1 applies in respect of loans made or indebtedness arising in a taxation year that ends after 31 December 1989. However, where section 114.1 of the said Act, enacted by subsection 1, applies in respect of loans made or indebtedness arising before 20 June 1996, paragraph *c* of that section shall be read without reference to “, other than employees who are specified employees of the corporation or of another corporation related to the corporation”.

40. (1) The said Act is amended by inserting, after section 116, the following section:

“116.1. For the purposes of this division, an individual who is an employee of a partnership is deemed to be a specified employee of the partnership where the individual is a specified shareholder of one or more corporations that, in total, are entitled, directly or indirectly, to a share of any income or loss of the partnership, which share is not less than 10% of the income or loss.”

(2) Subsection 1 applies in respect of loans made or indebtedness arising in a taxation year that ends after 31 December 1989.

41. (1) Sections 119.2 and 119.15 of the said Act are amended by striking out the definition of “majority interest partner”.

(2) Subsection 1 has effect from 27 April 1995.



42. (1) Section 147 of the said Act is amended, in subparagraph *a* of the second paragraph,

(1) by replacing “the particular year or within 60 days thereafter” by “the year that follows the particular year”;

(2) by striking out “within the meaning of section 359.1”.

(2) Paragraph 1 of subsection 1 has effect from 1 January 1997.

(3) Paragraph 2 of subsection 1 has effect from 1 December 1994.

43. (1) Section 157 of the said Act is amended by replacing paragraphs *r* and *s* by the following :

“(*r*) a contribution made in the year by the taxpayer to an environmental trust under which the taxpayer is a beneficiary ;

“(*s*) the consideration paid by the taxpayer in the year for the acquisition from another person or partnership of all or part of the taxpayer’s interest as a beneficiary under an environmental trust, other than consideration that is the assumption of a reclamation obligation in respect of the trust ; and”.

(2) Subsection 1 applies to taxation years that end after 18 February 1997. In addition, for the purposes of paragraph *r* of section 157 of the said Act, enacted by subsection 1, each contribution made by a taxpayer to a trust, other than a mining reclamation trust within the meaning of section 21.39 of the said Act, after 31 December 1995 and before 19 February 1997, is deemed to have been made on 19 February 1997.

44. (1) Section 175.2 of the said Act is amended by adding, after paragraph *d.2*, the following paragraph :

“(*d.3*) making a contribution to a registered education savings plan.”

(2) Subsection 1 applies from the taxation year 1998.

45. (1) Section 175.7 of the said Act is replaced by the following :

“175.7. Section 175.9 applies, subject to section 851.22.28, where

(*a*) a taxpayer, in this section and section 175.9 referred to as the “transferor”, disposes of a particular property ;

(*b*) the disposition is not described in any of paragraphs *a* to *e* of section 238 ;

(*c*) the transferor is not an insurer ;

(d) the ordinary business of the transferor includes the lending of money and the particular property was used or held in the course of that business ;

(e) the particular property is a share, or a loan, bond, debenture, note, obligation secured by mortgage, agreement of sale or any other indebtedness ;

(f) the particular property was, immediately before the disposition, not a capital property of the transferor ;

(g) during the period that begins 30 days before and ends 30 days after the time of disposition, the transferor or a person affiliated with the transferor acquires a property, in this section and section 175.9 referred to as the “substituted property”, that is, or is identical to, the particular property ; and

(h) at the end of the 30 days following the time of disposition, the transferor or a person affiliated with the transferor owns the substituted property.”

(2) Subject to section 307, subsection 1 applies in respect of dispositions of property that occur after 26 April 1995, other than a disposition that occurred before 1 July 1995 to which section 851.22.28 of the said Act does not apply or would not apply if the disposition had occurred after 30 June 1995.

46. (1) The said Act is amended by inserting, after section 175.7, the following sections :

“175.8. Section 175.9 also applies where

(a) a person, in this section and section 175.9 referred to as the “transferor”, disposes of a particular property ;

(b) the particular property is described in an inventory of a business that is an adventure or concern in the nature of trade ;

(c) the disposition is not a disposition that is deemed to have occurred under any of sections 436, 440, 444, 450, 450.6, 653, 785.1 and 785.2, paragraph *f* of section 785.5, or section 832.1 or 999.1 ;

(d) during the period that begins 30 days before and ends 30 days after the time of disposition, the transferor or a person affiliated with the transferor acquires property, in this section and section 175.9 referred to as the “substituted property”, that is, or is identical to, the particular property ; and

(e) at the end of the 30 days following the time of disposition, the transferor or a person affiliated with the transferor owns the substituted property.

“175.9. If this section applies because of section 175.7 or 175.8 in respect of a disposition of a particular property,

(a) the transferor’s loss from the disposition is deemed to be nil ; and

(b) the transferor's loss from the disposition, determined without reference to this section, is deemed to be a loss of the transferor from a disposition of the particular property at the first time, after the time of disposition,

i. at which a 30-day period begins throughout which neither the transferor nor a person affiliated with the transferor owns the substituted property, or a property that is identical to the substituted property and that was acquired after the day that is 31 days before the period begins,

ii. at which the substituted property would, if it were owned by the transferor, be deemed under section 785.1, 785.2 or 999.1 to have been disposed of by the transferor,

iii. that is immediately before control of the transferor is acquired by a person or group of persons, where the transferor is a corporation, or

iv. at which the winding-up of the transferor begins, other than a winding-up referred to in section 556, where the transferor is a corporation.

For the purposes of subparagraph *b* of the first paragraph, where a partnership otherwise ceases to exist at any time after the time of disposition,

(a) the partnership is deemed not to have ceased to exist until the time that is immediately after the first time described in subparagraphs i to iv of subparagraph *b*; and

(b) each person who was a member of the partnership immediately before the partnership would, but for this section, have ceased to exist is deemed to remain a member of the partnership, until the time that is immediately after the first time described in subparagraphs i to iv of subparagraph *b*.

“175.10. For the purposes of sections 175.7 to 175.9, a right to acquire a property, other than a right, as security only, derived from a mortgage, agreement of sale or similar obligation, is deemed to be a property that is identical to the property.”

(2) Subsection 1, where it enacts section 175.8 of the said Act, applies in respect of dispositions of property that occur after 20 June 1996, other than a disposition that occurred before 1 January 1997 to a person or partnership that was obliged on 20 June 1996 to acquire the property pursuant to the terms of an agreement in writing made on or before that date and, for the purposes of this subsection, a person or partnership shall be considered not to be obliged to acquire property where the person or partnership can be excused from performing the obligation if there is a change to the said Act or if there is an adverse assessment under the said Act.

(3) Subsection 1, where it enacts sections 175.9 and 175.10 of the said Act, applies in respect of dispositions of property that occur after 26 April 1995.

47. (1) Section 192 of the said Act is amended by striking out the second paragraph.

(2) Subsection 1 has effect from 27 April 1995.

48. (1) The said Act is amended by inserting, after section 192, the following section:

“192.1. For the purposes of this Part,

(a) any income or loss of a State body or a federal Crown body from a business carried on, respectively, by the State body or the Crown body as a mandatary of the State or of Her Majesty, as the case may be, or from a property of the State or of Her Majesty administered, respectively, by the State body or the federal Crown body shall be treated as if it were an income or loss of the State body or federal Crown body from the business or the property, as the case may be; and

(b) any property, obligation or debt of any kind whatever held, administered, entered into or incurred, as the case may be, by a State body or a federal Crown body as a mandatary of the State or of Her Majesty, as the case may be, shall be treated as if it were a property, obligation or debt, as the case may be, of the State body or federal Crown body.”

(2) Subsection 1 has effect from 27 April 1995. However, where paragraphs *a* and *b* of section 192.1 of the said Act, enacted by subsection 1, apply before 12 June 1998, they shall be read as follows:

“(a) any income or loss of a Crown corporation of Québec or Canada from a business carried on by the corporation as a mandatary of the Government or of Her Majesty, as the case may be, or from a property of the Government or of Her Majesty administered by the corporation shall be treated as if it were an income or loss of the corporation from the business or the property, as the case may be; and

“(b) any property, obligation or debt of any kind whatever held, administered, entered into or incurred, as the case may be, by a Crown corporation of Québec or Canada as a mandatary of the Government or of Her Majesty, as the case may be, shall be treated as if it were a property, obligation or debt, as the case may be, of the corporation.”

49. (1) Section 193 of the said Act is amended by replacing the words “third paragraph” by the words “second paragraph”.

(2) Subsection 1 has effect from 12 June 1998.

50. (1) Section 194 of the said Act is amended by replacing subparagraph *d* of the second paragraph by the following:

“(d) the aggregate of all amounts each of which is an amount included in computing the taxpayer’s income for the year from the business because of section 94, 105 or 485.13, the second paragraph of section 487 or section 487.0.3.”

(2) Subsection 1 applies to taxation years that end after 21 February 1994.

51. (1) Section 205 of the said Act is amended by replacing, in subparagraph i of paragraph *a* and in paragraph *b*, “230.10” by “230”.

(2) Subsection 1 applies from the taxation year 1995.

52. (1) Section 209.3 of the said Act is replaced by the following :

“209.3. The custodian of an employee benefit plan shall each year allocate to persons who have made contributions to the plan in respect of their employees or former employees the amount by which the aggregate of all payments made in the year out of or under the plan to or for the benefit of their employees or former employees, other than the portion thereof that, by virtue of section 47.2, is not required to be included by the taxpayer in computing the taxpayer’s income and that is a return of amounts paid by the taxpayer or a deceased employee of whom the taxpayer is a legatee by particular title or legal representative, and all payments made in the year out of or under the plan to the legatees by particular title or the legal representatives of their employees or former employees, exceeds the income of the plan for the year.”

(2) Subsection 1 has effect from 18 June 1998.

53. (1) The said Act is amended by inserting, after section 217.9, the following section :

“217.9.1. Where an individual carries on a business in a taxation year, the individual dies in the year and after the end of a fiscal period of the business that ends in the year, another fiscal period of the business ends because of the individual’s death, in this section referred to as the “short period”, and the individual’s legal representative elects that this section apply in computing the individual’s income for the year or files a separate fiscal return under section 1003 in respect of the individual’s business, notwithstanding section 217.9, there shall be included in computing the individual’s income for the year from the business, the amount determined by the formula

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

In the formula provided for in the first paragraph,

(a) A is the total of the individual’s income from the business for fiscal periods, other than the short period, of the business that end in the year ;

(b) B is the lesser of

i. the aggregate of all amounts each of which is an amount included in the total determined under subparagraph *a* in respect of the business that is deemed to be a taxable capital gain for the purposes of Title VI.5 of Book IV, and

ii. the aggregate of all amounts deducted under Title VI.5 of Book IV in computing the individual's taxable income for the year;

(c) C is the number of days in the short period; and

(d) D is the number of days in fiscal periods of the business, other than the short period, that end in the year.”

(2) Subsection 1 applies from the taxation year 1996. However, where the portion of the first paragraph of section 217.9.1 of the said Act before the formula, enacted by subsection 1, applies to the taxation years 1996 and 1997, it shall be read without reference to the words “or files a separate fiscal return under section 1003 in respect of the individual's business”.

54. (1) Section 217.13 of the said Act is amended by replacing paragraph *c* by the following:

“(c) the taxpayer's income for the particular taxation year computed before deducting any amount under this section in respect of the business or under any of sections 346.1 to 346.4.”

(2) Subsection 1 applies to taxation years that end after 21 February 1994.

55. (1) The said Act is amended by inserting, after section 217.16, the following section:

“217.17. Where an individual carries on a business in a taxation year, the individual dies in the year, an amount is included under section 217.14 in computing the individual's income for the year from the business and the individual's legal representative elects that this section apply in computing the individual's income for the year or files a separate fiscal return under section 1003 in respect of the individual's business, there shall be deducted in computing the individual's income for the year from the business the lesser of

(a) the greatest amount that would have been deductible under section 217.13 in computing the individual's income for the year from the business if the individual had not died; and

(b) the amount deducted by the legal representative.”

(2) Subsection 1 applies from the taxation year 1996.

56. (1) Section 222 of the said Act is amended

(1) by replacing subsection 2 by the following :

“(2) In this division, “scientific research and experimental development” means, subject to subsection 4, systematic investigation or search that is carried out in a field of science or technology by means of

(a) basic research or applied research undertaken for the advancement of scientific knowledge ; or

(b) experimental development undertaken for the purpose of achieving technological advancement for the purpose of creating new, or improving existing, materials, products, devices or processes, including incremental improvements thereto.” ;

(2) by adding, after subsection 2, the following subsections :

“(3) For the purposes of the definition of “scientific research and experimental development” in subsection 2 in respect of a taxpayer, scientific research and experimental development include work undertaken by or on behalf of the taxpayer with respect to engineering, design, operations research, mathematical analysis, computer programming, data collection, testing and psychological research, where the work is directly in support of research referred to in paragraph *a* of subsection 2 that is undertaken in Canada by or on behalf of the taxpayer, or experimental development referred to in paragraph *b* of that subsection that is undertaken in Canada by or on behalf of the taxpayer, and is commensurate with the needs of such research or experimental development.

“(4) For the purposes of the definition of “scientific research and experimental development” in subsection 2, scientific research and experimental development do not include work related to

(a) market research or sales promotion ;

(b) quality control or routine testing of materials, products, devices or processes ;

(c) research in the social sciences or the humanities ;

(d) prospecting, exploring or drilling for, or producing, minerals, petroleum or natural gas ;

(e) the commercial production of a new or improved material, device or product, or the commercial use of a new or improved process ;

(f) style changes ; or

(g) routine data collection.”

(2) Subsection 1 applies in respect of work undertaken after 27 February 1995.

57. Section 230 of the said Act is amended by replacing, in the French text of the portion of subparagraph iii of subparagraph *b* of the first paragraph before subparagraph 1, the word “immobilisation” by the word “capital”.

58. (1) Section 230.0.0.4.1 of the said Act is amended by replacing the words “Subject to section 230.0.0.5, no amount” by the words “No amount”.

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

59. (1) Section 230.0.0.5 of the said Act is replaced by the following:

“230.0.0.5. If a taxpayer has not filed the prescribed form that was required to be filed in respect of an expenditure in accordance with section 230.0.0.4.1, for the purposes of this Part, the expenditure is deemed not to be an expenditure on or in respect of scientific research and experimental development.”

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

60. (1) Division XII of Chapter V of Title III of Book III of Part I of the said Act is repealed.

(2) Subsection 1 applies from the taxation year 1995.

61. (1) Section 236.1 of the said Act is amended by replacing, in the third paragraph, “of section 658” by “of the first paragraph of section 658”.

(2) Subsection 1 applies to trust taxation years that end after 31 December 1996.

62. (1) Section 236.2 of the said Act is replaced by the following:

“236.2. Where the taxpayer is a corporation, its loss from the disposition at a particular time in a taxation year of shares of the capital stock of a corporation, in this section referred to as the “controlled corporation”, that was controlled, directly or indirectly in any manner whatever, by the taxpayer at any time in the year, is its loss otherwise determined from that disposition less the amount by which the amount determined in the second paragraph exceeds the aggregate of the amounts by which the taxpayer’s losses have been reduced by virtue of this section in respect of dispositions before the particular time of shares of the capital stock of the controlled corporation.

The amount to which the first paragraph refers is the aggregate of all amounts added under paragraph *c.1* of section 255 to the cost to a corporation, other than the controlled corporation, of property disposed of to that corporation by the controlled corporation that were added to the cost of the property



during the period while the controlled corporation was controlled by the taxpayer and that can reasonably be attributed to losses on the property that accrued during the period while the controlled corporation was controlled by the taxpayer.”

(2) Subject to section 307, subsection 1 applies in respect of dispositions of property that occur after 26 April 1995.

63. (1) Sections 237 and 238 of the said Act are replaced by the following :

“237. The loss of a taxpayer from the disposition of a particular property is not allowable where

(a) during the period that begins 30 days before and ends 30 days after the time of disposition, the taxpayer or a person affiliated with the taxpayer acquires a property, in this section referred to as the “substituted property”, that is, or is identical to, the particular property ; and

(b) at the end of the 30 days following the time of disposition, the taxpayer or a person affiliated with the taxpayer owns or has a right to acquire the substituted property.

For the purposes of the first paragraph, a right to acquire a property, other than a right, as security only, derived from a mortgage, agreement of sale or similar obligation, is deemed to be a property that is identical to the property.

“238. Section 237 does not apply where the disposition is

(a) a disposition deemed under section 242 as it read before 1 January 1993, any of sections 281, 283, 299 to 300, 436, 440, 444, 450, 450.6, 653, 785.1 and 785.2, paragraph *f* of section 785.5, section 832.1 or 851.22.15, paragraph *b* of section 851.22.23 or section 861, 862 or 999.1 to have been made ;

(b) the expiry of an option ;

(c) a disposition referred to in section 264.0.1 ;

(d) a disposition by a corporation the control of which was acquired by a person or group of persons within 30 days after the time of disposition ;

(e) a disposition by a person that, within 30 days after the time of disposition, became or ceased to be exempt from tax under this Part on its taxable income ;  
or

(f) a disposition to which section 238.1 or subsections 2 and 3 of section 424 apply.”

(2) Subject to section 307, subsection 1 applies in respect of dispositions of property that occur after 26 April 1995.

64. (1) The said Act is amended by inserting, after section 238, the following sections :

“238.1. The rules in the second paragraph apply where

(a) a corporation, trust or partnership, in this section referred to as the “transferor”, disposes of a particular capital property, other than depreciable property of a prescribed class, otherwise than in a disposition described in any of paragraphs *a* to *e* of section 238 ;

(b) during the period that begins 30 days before and ends 30 days after the time of disposition, the transferor or a person affiliated with the transferor acquires a property, in this section referred to as the “substituted property”, that is, or is identical to, the particular capital property ; and

(c) at the end of the 30 days following the time of disposition, the transferor or a person affiliated with the transferor owns the substituted property.

The rules to which the first paragraph refers are as follows :

(a) the transferor’s loss from the disposition is not allowable ;

(b) the amount of the transferor’s loss from the disposition, determined without reference to this paragraph and sections 237, 240, 241 and 288, is deemed to be a loss of the transferor from a disposition of the particular capital property at the time that is immediately before the first time, after the time of disposition,

i. at which a 30-day period begins throughout which neither the transferor nor a person affiliated with the transferor owns the substituted property, or a property that is identical to the substituted property and that was acquired after the day that is 31 days before the period begins,

ii. at which the substituted property would, if it were owned by the transferor, be deemed under section 785.1, 785.2 or 999.1 to have been disposed of by the transferor,

iii. that is immediately before control of the transferor is acquired by a person or group of persons, where the transferor is a corporation,

iv. at which the transferor or a person affiliated with the transferor is deemed under Division XII of Chapter IV to have disposed of the substituted property, where the substituted property is a debt or a share of the capital stock of a corporation, or

v. at which the winding-up of the transferor begins, other than a winding-up referred to in section 556, where the transferor is a corporation ; and

(c) for the purposes of subparagraph *b*, where a partnership otherwise ceases to exist at any time after the time of disposition,

i. the partnership is deemed not to have ceased to exist until the time that is immediately after the first time described in subparagraphs i to v of subparagraph *b*, and

ii. each person who was a member of the partnership immediately before the partnership would, but for this paragraph, have ceased to exist is deemed to remain a member of the partnership, until the time that is immediately after the first time described in subparagraphs i to v of subparagraph *b*.

“238.2. For the purposes of section 238.1,

(a) a right to acquire a property, other than a right, as security only, derived from a mortgage, agreement of sale or similar obligation, is deemed to be a property that is identical to the property ;

(b) a share of the capital stock of a corporation that is acquired in exchange for another share in a transaction to which Division XIII of Chapter IV, Division VI of Chapter IV of Title IX or Chapter V or VI of that Title IX applies is deemed to be a property that is identical to the other share ;

(c) where section 238.1 applies in respect of the disposition by a person or partnership of a share of the capital stock of a corporation, and after the disposition the corporation is merged with one or more other corporations, otherwise than in a transaction in respect of which paragraph *b* applies to the share, or is wound up in a winding-up referred to in section 556, the corporation formed on the merger or the parent, within the meaning of that section 556, as the case may be, is deemed to own the share while it is affiliated with the person or partnership ; and

(d) where section 238.1 applies to the disposition by a person or partnership of a share of the capital stock of a corporation, and after the disposition the share is redeemed, acquired or cancelled by the corporation, otherwise than in a transaction in respect of which paragraph *b* or *c* applies to the share, the person or partnership is deemed to own the share while the corporation is affiliated with the person or partnership.

“238.3. Where at a particular time a taxpayer disposes, to a corporation that is affiliated with the taxpayer immediately after the disposition, of a share of a class of the capital stock of the corporation, other than a share that is a distress preferred share within the meaning of section 485, the following rules apply :

(a) the taxpayer’s loss from the disposition is not allowable ; and

(b) in computing the adjusted cost base to the taxpayer after the particular time of a share of a class of the capital stock of the corporation owned by the

taxpayer immediately after the particular time, the taxpayer shall add the proportion of the amount of the taxpayer's loss from the disposition, determined without reference to this section and sections 237, 240, 241 and 288, that

i. the fair market value, immediately after the particular time, of the share is of

ii. the fair market value, immediately after the particular time, of all shares of the capital stock of the corporation owned by the taxpayer.”

(2) Subject to section 307, subsection 1 applies in respect of dispositions of property that occur after 26 April 1995.

65. (1) Section 239 of the said Act is repealed.

(2) Subject to section 307, subsection 1 applies in respect of dispositions of property that occur after 26 April 1995.

66. (1) Section 250.3 of the said Act is amended by replacing the portion before paragraph *a* by the following :

“250.3. An election referred to in section 250.1 does not apply to a disposition of a Canadian security by a taxpayer, other than a mutual fund corporation or a mutual fund trust, who, at the time of the disposition, is”.

(2) Subsection 1 applies from the taxation year 1991. However, where the French text of the portion of section 250.3 of the said Act before paragraph *a*, enacted by subsection 1, applies before 30 October 1996, it shall be read as follows :

“250.3. Le choix visé à l'article 250.1 ne s'applique pas à l'aliénation d'une valeur canadienne par un contribuable, autre qu'une corporation de fonds mutuels ou une fiducie de fonds mutuels, qui, lors de cette aliénation, est :”.

(3) In addition, for the purposes of section 250.1 of the said Act, if an election referred to in that section is made by a mutual fund corporation or a mutual fund trust in prescribed form on or before its filing-due date for its taxation year that includes 11 May 2000, and the election is in respect of a particular taxation year that ends after 31 December 1990 and that is not after the corporation's or trust's taxation year that includes 11 May 2000, the election is deemed to have been made in the corporation's or trust's fiscal return under Part I of the said Act for the particular taxation year.

67. (1) Section 251.1 of the said Act is amended

(1) by replacing the formula provided for in the definition of “exempt capital gains balance” in the first paragraph by the following :

“A – B – C – D”;

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

“(d) D is

i. if the entity is a trust described in any of paragraphs *c* to *f* of the definition of “flow-through entity” in the first paragraph, the aggregate of all amounts each of which is an amount included before the year in the cost to the individual of a property under section 688.2 or paragraph *c* of section 858 because of the individual’s exempt capital gains balance in respect of the entity, and

ii. in any other case, nil.”

(2) Subsection 1 applies from the taxation year 1994.

68. (1) Section 255 of the said Act is amended

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

“(b) where the property is substituted property, within the meaning of subparagraph *a* of the first paragraph of section 237, of the taxpayer, the amount by which the amount of the loss that was, because of the acquisition by the taxpayer of the property, a non-allowable loss referred to in that section 237 from a disposition of a property by a taxpayer exceeds, where the property disposed of was a share of the capital stock of a corporation, the amount that would, but for section 237, be deducted under section 741 or 742 in computing the loss of any taxpayer from the disposition of the share;”;

(2) by replacing paragraphs *c.1* and *c.1.1* by the following:

“(c.1) where the taxpayer is a taxable Canadian corporation and the property was disposed of by another taxable Canadian corporation to the taxpayer in circumstances such that paragraph *f.1* does not apply to increase the adjusted cost base to the other corporation of shares of the capital stock of the taxpayer and the capital loss from the disposition was not allowable under section 239, as it read, before its repeal, in respect of that disposition, or 264.0.1 or is deemed under paragraph *a* of section 535, as it read, before its repeal, in respect of that disposition, to be nil, the amount that would otherwise be the capital loss from the disposition;

“(c.1.1) where the property was disposed of by a person, other than a person not resident in Canada or a person exempt from tax under this Part on the person’s taxable income, or by an eligible Canadian partnership, within the meaning of section 485, to the taxpayer in circumstances such that paragraph *c.1* does not apply to increase the adjusted cost base to the taxpayer of the property, paragraph *f.1* does not apply to increase the adjusted cost base to that person of shares of the capital stock of the taxpayer and the capital loss

from the disposition was not allowable under section 264.0.1 or deemed under paragraph *a* of section 535, as it read, before its repeal, in respect of that disposition, to be nil, the amount that would otherwise be the capital loss from the disposition;”;

(3) by inserting, after paragraph *c.5*, the following paragraph :

“(c.6) where the property is an interest in, or a share of the capital stock of, a flow-through entity described in any of paragraphs *a*, *b* and *g* to *j* of the definition of “flow-through entity” in the first paragraph of section 251.1, the time is before 1 January 2005 and immediately after that time the taxpayer disposed of the aggregate of the taxpayer’s interests in, and shares of the capital stock of, the entity, an amount equal to the product obtained by multiplying the amount by which the taxpayer’s exempt capital gains balance, within the meaning of the first paragraph of section 251.1, in relation to the entity for the taxpayer’s taxation year that includes that time exceeds the aggregate of all amounts each of which is the amount by which a capital gain is reduced under the provisions of Chapter II.1 for the year because of the taxpayer’s exempt capital gains balance in relation to the entity or 4/3 of an amount by which a taxable capital gain, or the income from a business, is reduced under the provisions of that chapter for the year because of the taxpayer’s exempt capital gains balance in relation to the entity, by the proportion that the fair market value at that time of the property is of the fair market value at that time of the aggregate of the taxpayer’s interests in, and shares of the capital stock of, the entity;”;

(4) by replacing paragraph *f.1* by the following :

“(f.1) where the property is a share of the capital stock of a corporation, any amount required by paragraph *b* of section 238.3, or paragraph *b* of section 535, as it read, before its repeal, in respect of the disposition of that share, to be added;”.

(2) Subject to section 307, paragraphs 1, 2 and 4 of subsection 1 apply in respect of dispositions of property that occur after 26 April 1995.

(3) Paragraph 3 of subsection 1 applies from the taxation year 1994.

69. (1) The said Act is amended by inserting, after section 261.3, the following section :

“261.3.1. Where it can reasonably be considered that one of the main reasons that a member of a partnership was not a specified member of the partnership at all times since becoming a member of the partnership is to avoid the application of section 261.1 in respect of the member’s interest in the partnership, the member is deemed for the purposes of that section to have been a specified member of the partnership at all times since becoming a member of the partnership.”

(2) Subsection 1 has effect from 27 April 1995.

70. (1) Section 261.5 of the said Act is amended by replacing, in paragraph *b*, the words “is entitled” by the words “is entitled, either immediately or in the future and either absolutely or contingently,”.

(2) Subsection 1 applies to fiscal periods that end after 30 November 1994.

71. Section 274 of the said Act is amended, in the English text, by replacing the portion before subparagraph *a* of the first paragraph by the following :

“274. In this Title, “principal residence” of an individual, other than a personal trust, for a taxation year means a particular property that is a housing unit, a leasehold interest in a housing unit or a share of the capital stock of a housing cooperative acquired for the sole purpose of acquiring the right to inhabit a housing unit owned by the cooperative if, in every case, the particular property is owned in the year by the individual, whether alone or jointly with another person, and the condition set out in the second paragraph and one of the following conditions are met:”.

72. Section 274.0.1 of the said Act is amended, in the English text, by replacing the portion before subparagraph *a* of the first paragraph by the following :

“274.0.1. In this Title, “principal residence” of an individual who is a personal trust, in this section referred to as a “trust”, for a taxation year means a particular property that is a housing unit, a leasehold interest in a housing unit or a share of the capital stock of a housing cooperative acquired for the sole purpose of acquiring the right to inhabit a housing unit owned by the cooperative if, in every case, the particular property is owned in the year by the trust, whether alone or jointly with another person, and the conditions set out in the second paragraph and one of the following conditions are met:”.

73. (1) Section 308.0.1 of the said Act is amended, in the first paragraph,

(1) by replacing, in the French text of the portion of the definition of “acquisition autorisée” before paragraph *a*, the words “comme partie” by the words “dans le cadre”;

(2) by inserting the following definition in alphabetical order :

““safe-income determination time”, in relation to a transaction or event or a series of transactions or events, means the time that is the earlier of

(*a*) the time that is immediately after the earliest disposition or increase in interest described in any of paragraphs *a* to *e* of section 308.2.1 that resulted from the transaction or event or series of transactions or events ; and

(*b*) the time that is immediately before the earliest time that a dividend is paid as part of the transaction or event or series of transactions or events ;” ;

(3) by replacing paragraphs *a* and *b* of the definition of “permitted redemption” by the following:

“(a) a redemption or purchase for cancellation by the distributing corporation, as part of the reorganization in which the distribution was made, of all the shares of its capital stock that were owned, immediately before the distribution, by a transferee corporation in relation to the distributing corporation;

“(b) a redemption or purchase for cancellation by a transferee corporation in relation to the distributing corporation, or by a corporation that, immediately after the redemption or purchase, was a subsidiary wholly-owned corporation of the transferee corporation, as part of the reorganization in which the distribution was made, of all of the shares of the capital stock of the transferee corporation or the subsidiary wholly-owned corporation that were acquired by the distributing corporation in consideration for the transfer of property received by the transferee corporation on the distribution; and”.

(2) Paragraph 2 of subsection 1 applies in respect of dividends received after 20 June 1996.

(3) Paragraph 3 of subsection 1 applies in respect of dividends received after 21 February 1994.

74. (1) Section 308.1 of the said Act is amended

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

“308.1. Notwithstanding any other provision of this Part, where a corporation resident in Canada receives a taxable dividend referred to in section 308.2 in respect of which it is entitled to a deduction under section 738, 740 or 845, the amount of that dividend, other than the prescribed portion of it, is deemed”;

(2) by replacing paragraphs *b* and *c* by the following:

“(b) where a corporation has disposed of the share referred to in section 308.2, to be proceeds of disposition of that share to the extent that the amount is not otherwise included in computing such proceeds; and

“(c) where a corporation has not disposed of the share referred to in section 308.2, to be a gain of the corporation for the year in which the dividend was received from the disposition of a capital property.”

(2) Subsection 1 applies in respect of dividends received after 21 February 1994. However, where the portion of section 308.1 of the said Act before paragraph *a*, enacted by paragraph 1 of subsection 1, applies in respect of such dividends received before 21 June 1996, it shall be read without reference to “, 740”.



75. (1) Section 308.2 of the said Act is replaced by the following :

“308.2. Section 308.1 applies only where a taxable dividend is received by a corporation as part of a transaction or event or a series of transactions or events one of the purposes of which, or, in the case of a dividend referred to in section 506, one of the results of which, was to effect a significant reduction in the portion of the capital gain that, but for the dividend, would have been realized on a disposition at fair market value of any share of the capital stock of a corporation immediately before the dividend was paid and that could reasonably be attributed to anything other than income earned or realized by any corporation after 1971 and before the safe-income determination time, in relation to the transaction or event or series of transactions or events.”

(2) Subsection 1 applies in respect of dividends received after 21 February 1994. However, where section 308.2 of the said Act, enacted by subsection 1, applies in respect of such dividends received before 21 June 1996, it shall be read with “that commenced after 21 April 1980,” inserted before “one of the purposes of which” and with “the safe-income determination time, in relation to the transaction or event or series of transactions or events” replaced by “the transaction or event or the commencement of the series of transactions or events referred to in section 308.2.1”.

76. (1) The said Act is amended by inserting, after section 308.2, the following sections :

“308.2.1. Section 308.1 does not apply, however, to any dividend received by a particular corporation if, as part of a transaction or event or a series of transactions or events as a part of which the dividend was received, there was not at any particular time

(a) a disposition, to a person or partnership that was an unrelated person immediately before the particular time, of property, other than

i. money disposed of on the payment of a dividend or on a reduction of the paid-up capital of a share, and

ii. property disposed of for proceeds of disposition that are not less than its fair market value ;

(b) a significant increase, other than as a consequence of a disposition of shares of the capital stock of a corporation for proceeds of disposition that are not less than their fair market value, in the total direct interest in any corporation of one or more persons or partnerships that were unrelated persons immediately before the particular time ;

(c) a disposition, to a person or partnership who was an unrelated person immediately before the particular time, of

i. shares of the capital stock of the corporation that paid the dividend, or

ii. property more than 10% of the fair market value of which was, at any time during the course of the series of transactions or events, derived from shares of the capital stock of the corporation that paid the dividend;

(d) after the time the dividend was received, a disposition, to a person or partnership that was an unrelated person immediately before the particular time, of

i. shares of the capital stock of the particular corporation, or

ii. property more than 10% of the fair market value of which was, at any time during the course of the series of transactions or events, derived from shares of the capital stock of the particular corporation; and

(e) a significant increase in the total of all direct interests in the corporation that paid the dividend of one or more persons or partnerships who were unrelated persons immediately before the particular time.

“308.2.2. For the purposes of section 308.2.1, the following rules apply :

(a) “unrelated person” means a person, other than the particular corporation that received the dividend, to whom the particular corporation is not related or a partnership any member of which, other than the particular corporation, is not related to the particular corporation;

(b) a corporation that is formed by an amalgamation of two or more other corporations is deemed to be a continuation of each of the other corporations;

(c) proceeds of disposition of a property shall be determined without reference to paragraph *a* of section 308.1 in section 251; and

(d) notwithstanding any other provision of this Act, where a person not resident in Canada disposes of a property in a taxation year and the gain or loss from the disposition is not included in computing the person’s taxable income earned in Canada for the year, the person is deemed to have disposed of the property for proceeds of disposition that are less than its fair market value unless, under the income tax laws of the country in which the person is resident, the gain or loss is computed as if the property were disposed of for proceeds of disposition that are not less than its fair market value and the gain or loss so computed is recognized for the purposes of those laws.”

(2) Subsection 1 applies in respect of dividends received by a corporation after 21 February 1994. However,

(1) in respect of such dividends received before 20 June 1996 or received under an arrangement substantially advanced, as evidenced in writing, before 20 June 1996, section 308.2.1 of the said Act, enacted by subsection 1, shall be read with the words “total direct interest” in paragraph *b* and the words “total of all direct interests” in paragraph *e* replaced by the word “interest”; and

(2) in respect of such dividends, where they are received on shares issued before 20 June 1996 and the corporation so elects in writing on or before 30 September 2000 or in its fiscal return under Part I of the said Act for the year in which it received the dividends, section 308.2.1 of the said Act, enacted by subsection 1, shall be replaced by the following, and the said Act shall be read without reference to section 308.2.2 of the said Act, enacted by subsection 1 :

“308.2.1. Section 308.1 applies only if, in addition to the condition set out in section 308.2, the dividend is received by a particular corporation as part of a transaction or event or a series of transactions or events that result in a disposition of any property to a person with whom the particular corporation is dealing at arm’s length or a significant increase in the interest in any corporation of any person with whom the particular corporation is dealing at arm’s length.”

(3) Where a corporation elects under paragraph 2 of subsection 2 in relation to dividends received after 21 February 1994,

(1) section 308.5 of the said Act shall, in relation to those dividends, be read as follows :

“308.5. For the purposes of this division, where it can reasonably be considered that the principal purpose of one or more transactions or events was to cause two or more persons to be related or not deal with each other at arm’s length, or to cause one corporation to control another corporation, so as to make section 308.1 inapplicable, those persons are deemed not to be related or are deemed to deal with each other at arm’s length, or the corporation is deemed not to control the other corporation, as the case may be.”; and

(2) subparagraph *e* of the first paragraph of section 308.6 of the said Act shall, in relation to those dividends, be read as follows :

“(e) in determining whether two or more persons do not deal with each other at arm’s length,

i. a person is deemed to deal with another person at arm’s length and not to be related to the other person if the person is the brother or sister of the other person, and

ii. persons who are otherwise related to each other solely because of a right referred to in paragraph *b* of section 20 are deemed not to be related to each other; and”.

77. (1) Section 308.3 of the said Act is amended by replacing the portion before paragraph *a* by the following :

“308.3. In addition, section 308.1 does not apply if the dividend was received by a corporation”.

(2) Subsection 1 applies in respect of dividends received after 21 February 1994.

78. (1) Section 308.3.1 of the said Act is amended

(1) by replacing the words “comme partie” by the words “dans le cadre”, in the French text of the following provisions :

- the portion of paragraph *b* before subparagraph *i* ;
- subparagraph 1 of subparagraph *i* of paragraph *b* ;
- subparagraph *ii* of paragraph *b* ;
- subparagraph 2 of subparagraph *iii* of paragraph *b* ;
- the portion of subparagraph *i* of paragraph *c* before subparagraph 1 ;
- the portion of subparagraph *i* of paragraph *d* before subparagraph 1 ;

(2) by replacing subparagraphs 2 and 3 of subparagraph *ii* of paragraph *c* by the following :

“(2) more than 10% of the fair market value of which was, at any time after the distribution and before the end of the series of transactions or events, attributable to property, other than money and indebtedness that is not convertible into other property, described in subparagraph 1 or 3, or

“(3) to which, at any time during the course of the series of transactions or events, the fair market value of property described in subparagraph 1 was wholly or partly attributable; or”;

(3) by replacing subparagraphs 2 and 3 of subparagraph *ii* of paragraph *d* by the following :

“(2) more than 10% of the fair market value of which was, at any time after the distribution and before the end of the series of transactions or events, attributable to property, other than money and indebtedness that is not convertible into other property, described in subparagraph 1 or 3, or

“(3) to which, at any time during the course of the series of transactions or events, the fair market value of property described in subparagraph 1 was wholly or partly attributable.”

(2) Paragraphs 2 and 3 of subsection 1 apply in respect of dividends received after 26 April 1995. However, in respect of acquisitions of property that occur before 20 June 1996 or under a written agreement entered into before 20 June 1996, subparagraph 2 of subparagraph *ii* of paragraph *c* of section 308.3.1 of the said Act, enacted by paragraph 2 of subsection 1, and

subparagraph 2 of subparagraph ii of paragraph *d* of that section, enacted by subparagraph 3 of subsection 1, shall be read with “subparagraph 1 or 3” replaced by “subparagraph 1”.

79. (1) Section 308.3.2 of the said Act is amended by adding, after paragraph *g*, the following paragraph:

“(h) each corporation that is a shareholder and specified shareholder of a distributing corporation at any time during the course of a series of transactions or events, a part of which includes a distribution made by the distributing corporation, is deemed to be a transferee corporation in relation to the distributing corporation.”

(2) Subsection 1 applies in respect of dividends received after 20 June 1996 other than dividends received in the course of a reorganization that is carried out under a series of transactions or events substantially advanced, as evidenced in writing, on 20 June 1996 or that was required on 20 June 1996 to be carried out under a written agreement entered into on or before 20 June 1996 and, for the purposes of this subsection, a reorganization is deemed not to be required to be carried out if the parties to that agreement can be relieved of that requirement if there is a change to the said Act.

80. (1) The said Act is amended by inserting, after section 308.3.2, the following section:

“308.3.3. In determining whether a person is a specified shareholder of a corporation for the purposes of subparagraph i of paragraph *b* of section 308.3.1 and paragraph *h* of section 308.3.2, the reference in section 21.17 to “or of any other corporation that is related to the corporation” shall be read as “or of any other corporation that is related to the corporation and that has a significant direct or indirect interest in any issued shares of the capital stock of the corporation”.

(2) Subsection 1 applies in respect of dividends received after 31 December 1996.

81. (1) Section 308.6 of the said Act is amended, in the first paragraph,

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

“(a) where a dividend referred to in sections 308.1 and 308.2 is received by a corporation as part of a transaction or event or a series of transactions or events, the portion of a capital gain attributable to any income expected to be earned or realized by a corporation after the safe-income determination time for the transaction, event or series of transactions or events is deemed to be a portion of a capital gain attributable to anything other than income;”;

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

“i. its income for the period otherwise determined on the assumption that no amounts were deductible by the corporation in respect of that period under paragraph *j* of section 157, as it read before being struck out, and sections 230.1 to 230.11, as they read before their repeal;”;

(3) by replacing subparagraph *c* by the following :

“(c) the income earned or realized by a corporation for a period throughout which it was a private corporation is deemed to be its income for the period otherwise determined on the assumption that no amounts were deductible by the corporation in respect of that period under paragraph *j* of section 157, as that paragraph read before being struck out, or sections 230.1 to 230.11, as they read before their repeal;”.

(2) Paragraph 1 of subsection 1 applies in respect of dividends received after 20 June 1996. In addition, where subparagraph *a* of the first paragraph of section 308.6 of the said Act, replaced by paragraph 1 of subsection 1, applies in respect of dividends received after 21 February 1994, it shall be read with “in section 308.1 and in paragraph *a* of section 308.2” replaced by “in sections 308.1 and 308.2”.

(3) Paragraphs 2 and 3 of subsection 1 apply from the taxation year 1995.

82. (1) Section 310 of the said Act is amended by striking out “900.”.

(2) Subsection 1 has effect from 1 January 1998.

83. (1) Section 311 of the said Act is amended

(1) by replacing paragraph *c* by the following :

“(c) a benefit under the Unemployment Insurance Act (Revised Statutes of Canada, 1985, chapter U-1), other than a payment relating to a course or program designed to facilitate the re-entry into the labour force of a claimant under that Act, or a benefit under Part I, VIII or VIII.1 of the Employment Insurance Act (Statutes of Canada, 1996, chapter 23);”;

(2) by inserting, after paragraph *e.1*, the following paragraphs :

“(e.2) earnings supplements provided under a project sponsored by a government or government agency in Canada to encourage individuals to obtain or keep employment, other than a prescribed program;

“(e.3) financial assistance under a program established by the Canada Employment Insurance Commission under Part II of the Employment Insurance Act;

“(e.4) financial assistance under a program, other than a prescribed program, that is

i. established by a government or government agency in Canada or by an organization,

ii. similar to a program established under Part II of the Employment Insurance Act, and

iii. the subject of an agreement between the government, government agency or organization, as the case may be, and the Canada Employment Insurance Commission pursuant to section 63 of the Employment Insurance Act;”;

(3) by replacing, in paragraph *i*, “in section 904” by “in sections 904 and 904.1”.

(2) Paragraph 1 of subsection 1 has effect from 30 June 1996.

(3) Paragraph 2 of subsection 1, where it enacts paragraph *e.2* of section 311 of the said Act, applies from the taxation year 1993 and, where it enacts paragraphs *e.3* and *e.4* of that section 311, has effect from 1 July 1996.

(4) Paragraph 3 of subsection 1 applies from the taxation year 1998.

84. (1) Section 311.1 of the said Act is replaced by the following :

“311.1. A taxpayer shall also include any amount, other than a prescribed amount, received in the year by the taxpayer as a social assistance payment based on a means, needs or income test, to the extent that such amount is not otherwise required to be included in computing the taxpayer’s income for a taxation year.”

(2) Subsection 1 applies from the taxation year 1993. However, where section 311.1 of the said Act, enacted by subsection 1, applies

(1) to the taxation year 1993, it shall be read as follows:

“311.1. A taxpayer shall also include any amount received in the year by the taxpayer as a social assistance payment based on a means, needs or income test or any such amount received in the year by the taxpayer’s spouse who resided with the taxpayer at the time the payment was received and whose income for the year, determined without reference to this section, section 313.1, paragraph *d.1* of subsection 1 of section 336 and Chapter VIII of Title VI, is less than the taxpayer’s income so determined for the year, to the extent that such amount is not otherwise required to be included in computing the income for a taxation year of the taxpayer or the taxpayer’s spouse, except where the taxpayer resided with the taxpayer’s spouse at the time the payment was received and the taxpayer’s income for the year, determined without reference to this section, section 313.1, paragraph *d.1* of subsection 1 of section 336 and Chapter VIII of Title VI, is less than the taxpayer’s spouse’s income so determined for the year.”;

(2) to the taxation year 1994, it shall be read as follows :

“311.1. A taxpayer shall also include any amount received in the year by the taxpayer as a social assistance payment based on a means, needs or income test or any such amount received in the year by the taxpayer’s spouse who resided with the taxpayer at the time the payment was received and whose income for the year, determined without reference to this section, section 313.1 and paragraph *d.1* of subsection 1 of section 336, is less than the taxpayer’s income so determined for the year, to the extent that such amount is not otherwise required to be included in computing the income for a taxation year of the taxpayer or the taxpayer’s spouse, except where the taxpayer resided with the taxpayer’s spouse at the time the payment was received and the taxpayer’s income for the year, determined without reference to this section, section 313.1 and paragraph *d.1* of subsection 1 of section 336, is less than the taxpayer’s spouse’s income so determined for the year.”;

(3) to the taxation years 1995 to 1997, it shall be read as follows :

“311.1. A taxpayer shall also include any amount received in the year by the taxpayer as a social assistance payment based on a means, needs or income test, other than a prescribed payment, or any such amount received in the year by the taxpayer’s spouse who resided with the taxpayer at the time the payment was received and whose income for the year, determined without reference to this section, section 313.1 and paragraph *d.1* of subsection 1 of section 336, is less than the taxpayer’s income so determined for the year, to the extent that such amount is not otherwise required to be included in computing the income for a taxation year of the taxpayer or the taxpayer’s spouse, except where the taxpayer resided with the taxpayer’s spouse at the time the payment was received and the taxpayer’s income for the year, determined without reference to this section, section 313.1 and paragraph *d.1* of subsection 1 of section 336, is less than the taxpayer’s spouse’s income so determined for the year.”

85. (1) Section 312.3 of the said Act is amended by replacing the second paragraph by the following :

“For the purposes of the definition of “support amount” in the first paragraph, the following rules apply :

(a) a support amount does not include an amount described in that definition that, if paid and received, would be so under a decree, order or judgment of a competent tribunal, or under a written agreement, that does not have a commencement day, and would not be required to be included in computing the income of the recipient of the amount if

i. paragraphs *a* to *b.1* of section 312, as they applied before being struck out, applied in respect of an amount received after 31 December 1996 and were read without reference to the words “and throughout the remainder of the year”, and



ii. section 312.4 were disregarded;

(*b*) the portion of that definition before paragraph *a* shall be read without reference to the words “the recipient has discretion as to the use of the amount, and”, where it applies in respect of an amount receivable under a decree, order or judgment of a competent tribunal, or under a written agreement, made after 27 March 1986 and before 1 January 1988.”

(2) Subsection 1 has effect from 1 January 1997.

86. (1) Section 312.4 of the said Act is amended by replacing subparagraph *b* of the second paragraph by the following :

“(b) B is the aggregate of all amounts each of which is a child support amount that became receivable by the taxpayer from the particular person under an agreement or order on or after the commencement day and before the end of the year in respect of a period that began on or after the commencement day; and”.

(2) Subsection 1 applies in respect of amounts received after 31 December 1996.

87. (1) Section 336 of the said Act is amended

(1) by replacing paragraphs *d* and *d.1* by the following :

“(d) any amount described in any of paragraphs *a*, *c* and *e* to *e.4* of section 311 or section 311.1, any pension under the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9) or any benefit under the Act respecting the Québec Pension Plan (chapter R-9) or a similar plan within the meaning of that Act, received by an individual and included in computing the individual’s income for the year or a preceding taxation year, to the extent of the amount repaid by the individual in the year otherwise than because of Part VII of the Unemployment Insurance Act (Revised Statutes of Canada, 1985, chapter U-1) or Part VII of the Employment Insurance Act (Statutes of Canada, 1996, chapter 23);

“(d.1) any amount the taxpayer is required to pay on or before 30 April of the following year as a benefit repayment under Part VII of the Unemployment Insurance Act or Part VII of the Employment Insurance Act, to the extent that the amount was not deductible in computing the taxpayer’s income for any preceding taxation year;”;

(2) by replacing subparagraph *iv* of paragraph *e* by the following :

“iv. a decision of the Canada Employment and Immigration Commission, the Canada Employment and Insurance Commission, a board of referees or an umpire under the Unemployment Insurance Act or the Employment Insurance Act;”.

(2) Subsection 1 has effect from 30 June 1996. However,

(1) where paragraph *d* of section 336 of the said Act, enacted by paragraph 1 of that subsection 1, applies to taxation years that are before the taxation year 1998, it shall be read as follows :

“(d) any amount described in any of paragraphs *a*, *c* and *e* to *e.4* of section 311, any pension under the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9) or any benefit under the Act respecting the Québec Pension Plan (chapter R-9) or a similar plan within the meaning of that Act, any training allowance under the National Training Act (Revised Statutes of Canada, 1985, chapter N-19), received by an individual and included in computing the individual’s income for the year or a preceding taxation year, to the extent of the amount repaid by the individual in the year otherwise than because of Part VII of the Unemployment Insurance Act (Revised Statutes of Canada, 1985, chapter U-1) or Part VII of the Employment Insurance Act (Statutes of Canada, 1996, chapter 23);”;

(2) where subparagraph iv of paragraph *e* of section 336 of the said Act, enacted by paragraph 2 of that subsection 1, applies in respect of amounts paid before 12 July 1996, it shall be read as follows :

“iv. a decision of the Canada Employment and Immigration Commission, a board of referees or an umpire under the Unemployment Insurance Act or the Employment Insurance Act;”.

88. (1) Section 336.0.2 of the said Act is amended by replacing the second paragraph by the following :

“For the purposes of the definition of “support amount” in the first paragraph, the following rules apply :

(a) a support amount does not include an amount described in that definition that, if paid and received, would be so under a decree, order or judgment of a competent tribunal, or under a written agreement, that does not have a commencement day, and would not be required to be included in computing the income of the recipient of the amount if

i. paragraphs *a* to *b.1* of section 312, as they applied before being struck out, applied in respect of an amount received after 31 December 1996 and were read without reference to the words “and throughout the remainder of the year”, and

ii. section 312.4 were disregarded; and

(b) the portion of that definition before paragraph *a* shall be read without reference to the words “the recipient has discretion as to the use of the amount, and”, where it applies in respect of an amount payable under a decree, order or judgment of a competent tribunal, or under a written agreement, made after 27 March 1986 and before 1 January 1988.”

(2) Subsection 1 has effect from 1 January 1997.

89. (1) Section 336.0.3 of the said Act is amended by replacing subparagraph *b* of the second paragraph by the following:

“(b) B is the aggregate of all amounts each of which is a child support amount that became payable by the taxpayer to the particular person under an agreement or order on or after the commencement day and before the end of the year in respect of a period that began on or after the commencement day; and”.

(2) Subsection 1 applies in respect of amounts paid after 31 December 1996.

90. (1) Section 346.2 of the said Act is amended by replacing subparagraph *e* of the second paragraph by the following:

“(e) E is 50% of the amount by which the amount that would be the corporation’s income for the year if that amount were determined without reference to this section and sections 346.3 and 346.4 exceeds the amount determined under subparagraph *a* of the first paragraph in respect of the corporation for the year.”

(2) Subsection 1 applies to taxation years that end after 21 February 1994.

91. (1) Section 350 of the said Act is amended by replacing paragraph *f* by the following:

“(f) where the old residence is sold by the individual or the individual’s spouse as a result of the move, the legal costs incurred for the acquisition of the individual’s new residence that are required for that acquisition and any tax, fee or duty, other than any goods and services tax or value-added tax, imposed on the transfer of the right of ownership to, or registration of rights arising out of the acquisition of, the new residence.”

(2) Subsection 1 applies in respect of amounts incurred after 31 December 1990. However, where paragraph *f* of section 350 of the said Act, enacted by subsection 1, applies before 1 January 1994, it shall be read with the words “registration of rights arising out of the acquisition” replaced by the words “registration of the deed of sale”.

92. (1) Section 358.0.1 of the said Act is amended, in the first paragraph,

(1) by replacing, in the portion before paragraph *a*, “sections 752.0.14 to 752.0.16” and “section 429, 681, 782 or 1003” respectively by “section 752.0.14 or 752.0.15” and “the second paragraph of section 429 or section 681, 782 or 1003”;

(2) by striking out paragraph *c*.

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

93. (1) Section 359.8 of the said Act is amended by replacing the portion before paragraph *a* by the following :

“359.8. Where a corporation that issues a flow-through share to a person under an agreement incurs, in a particular calendar year, Canadian exploration expenses or Canadian development expenses, the corporation is, for the purposes of section 359.2 or for the purposes of section 359.2.1 and paragraph *b* of section 359.2.2, as the case may be, deemed to have incurred the expenses on the last day of the preceding calendar year, provided that”.

(2) Subsection 1 applies in respect of expenses incurred after 31 December 1992. However, where the portion of section 359.8 of the said Act before paragraph *a*, enacted by subsection 1, applies in respect of expenses incurred before 1 January 1997 or in respect of expenses incurred after 31 December 1996 and before 1 March 1997 in relation to an agreement entered into in the calendar year 1995, it shall be read as follows :

“359.8. Where a corporation that issues a flow-through share to a person under an agreement incurs, within 60 days after the end of a calendar year, Canadian exploration expenses or Canadian development expenses, the corporation is, for the purposes of section 359.2 or for the purposes of section 359.2.1 and paragraph *b* of section 359.2.2, as the case may be, deemed to have incurred the expenses on the effective date of the renunciation, provided that”.

94. (1) Section 364 of the said Act is amended by replacing paragraph *c* by the following :

“(c) the cost of any Canadian resource property acquired by the taxpayer after 1971 ;”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1984.

95. (1) Sections 384.4 and 384.5 of the said Act are replaced by the following :

“384.4. For the purposes of sections 371 to 374, 408 to 416 and 418.1 to 418.12, except as those sections apply for the purposes of sections 418.15 to 418.36, where, at a particular time, control of a corporation has been acquired by a person or group of persons, within the 12-month period that ended immediately before that time, the corporation or a partnership of which it was a majority interest partner acquired a Canadian resource property or a foreign resource property, and immediately before the 12-month period began, the corporation was not a development corporation and the partnership, if it were a corporation, would not be a development corporation,

(a) the property is deemed, subject to subparagraph *b*, to have been acquired by the corporation or partnership at the particular time and is deemed not to have been acquired by it before that time; and

(b) where the property has been disposed of by the corporation or partnership before the particular time and not reacquired by it before that time, the property is deemed to have been acquired by the corporation or partnership immediately before it disposed of the property.

However, the first paragraph does not apply in the case of the acquisition of a property that was owned by the corporation or partnership or a person that would, but for the definition of “controlled” in section 21.0.1, be affiliated with the corporation throughout the period that began immediately before the 12-month period referred to in the first paragraph and ended at the time the property was acquired by the corporation or partnership.

“384.5. For the purposes of section 384.4, where the corporation referred to in that section was incorporated or otherwise formed in the 12-month period, it is deemed to have been

(a) in existence throughout the period that began immediately before that 12-month period and ended immediately after it was incorporated or otherwise formed; and

(b) affiliated, throughout the period referred to in paragraph *a*, with every person with whom it was affiliated, otherwise than because of a right referred to in paragraph *b* of section 20, throughout the period that began when it was incorporated or otherwise formed and ended immediately before its control was acquired.”

(2) Subsection 1, where it replaces section 384.4 of the said Act, has effect from 27 April 1995 and, where it replaces section 384.5 of the said Act, applies in respect of acquisitions of control that occur after 26 April 1995.

96. (1) Section 418.26 of the said Act is amended

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

“418.26. Where, at any time after 12 November 1981, control of a corporation has been acquired by a person or group of persons, or a corporation ceases on or before 26 April 1995 to be exempt from tax under this Part on its taxable income, for the purposes of the provisions of the Act respecting the application of the Taxation Act (chapter I-4) and of this Part, other than sections 359.2, 359.2.1, 359.2.2, 359.4 and 359.13, relating to deductions in respect of drilling and exploration expenses, prospecting, exploration and development expenses, Canadian exploration and development expenses, foreign exploration and development expenses, Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses, in this section referred to as “resource expenses”, incurred by the corporation before that time, the following rules apply :”;

(2) by inserting, after paragraph *a*, the following paragraph :

“(a.1) where the corporation did not own a foreign resource property immediately before that time, the corporation is deemed to have owned a foreign resource property immediately before that time;”.

(2) Paragraph 1 of subsection 1 has effect from 27 April 1995. However, where the portion of section 418.26 of the said Act before paragraph *a*, enacted by that paragraph 1, applies

(1) to taxation years that begin before 1 January 1999, it shall be read with “359.4 and” replaced by “359.4, 359.6 and”;

(2) before 12 June 1998, it shall be read with “(chapter I-4)” replaced by “(1972, chapter 24)”.

(3) Paragraph 2 of subsection 1 applies to taxation years that end after 17 February 1987.

97. (1) Section 419.7 of the said Act is replaced by the following :

“419.7. Where a corporation acquires in any manner whatever all or substantially all of the Canadian resource properties or foreign resource properties of a person whose taxable income is exempt from tax under this Part, section 88.4 of the Act respecting the application of the Taxation Act (chapter I-4), to the extent that that section refers to subsection 25 of section 29 of the Income Tax Application Rules (Revised Statutes of Canada, 1985, chapter 2, 5th Supplement), and sections 418.16 to 418.21 do not apply to the corporation in respect of the acquisition of the properties.”

(2) Subsection 1 applies in respect of acquisitions that occur after 26 April 1995, other than an acquisition that was made by a corporation before 1 January 1996 and that was required by an agreement in writing entered into before 27 April 1995. However, where section 419.7 of the said Act, enacted by subsection 1, applies before 12 June 1998, it shall be read with “section 88.4 of the Act respecting the application of the Taxation Act (chapter I-4), to the extent that that section” replaced by “section 86 of the Act respecting the application of the Taxation Act (1972, chapter 24), to the extent that section 86.4 of the Regulation respecting the application of the Taxation Act (1972) (R.R.Q., 1981, chapter I-4, r.2)”.

98. (1) Section 419.8 of the said Act is repealed.

(2) Subsection 1 applies in respect of acquisitions that occur after 26 April 1995, other than an acquisition that was made by a corporation before 1 January 1996 and that was required by an agreement in writing entered into before 27 April 1995.

99. (1) Section 424 of the said Act is amended

(1) by replacing subsection 2 by the following :

“(2) Where in a taxation year of the corporation such property is appropriated in any manner whatever to, or for the benefit of, a shareholder upon the winding-up of the corporation, the corporation is deemed, for the purpose of computing its income for the year, to have disposed of the property immediately before the winding-up for proceeds of disposition equal to its fair market value at that time, and sections 93.3.1, 106.4, 175.9, 238.1 and 238.3 do not apply in respect of any property disposed of on the winding-up.”;

(2) by striking out subsection 4.

(2) Subsection 1 applies in respect of windings-up that begin after 31 December 1995.

(3) In addition, where subsection 2 of section 424 of the said Act, replaced by paragraph 1 of subsection 1, applies in respect of windings-up that begin after 26 April 1995 and before 1 January 1996, it shall be read with “sections 527.1, 527.2 and 535” replaced by “sections 93.3.1, 106.4, 175.9, 238.1, 238.3, 527.1, 527.2 and 535”.

100. (1) Section 427.4 of the said Act is replaced by the following :

“427.4. Notwithstanding any other provision of this Part, where, at any particular time as part of a series of transactions or events, a taxpayer disposes of property for proceeds of disposition that are less than its fair market value, the taxpayer is deemed to have disposed of the property at that time for proceeds of disposition equal to its fair market value at that time, if

(a) it may reasonably be considered that one of the main purposes of the series of transactions or events is to obtain the benefit of

i. any deduction described in the second paragraph or any balance of undeducted outlays, expenses or other amounts available to a person, other than a person that would be affiliated with the taxpayer immediately before the series of transactions or events, but for the definition of “controlled” in section 21.0.1, in respect of a subsequent disposition of the property or property substituted for the property, or

ii. an exemption available to any person from tax payable under this Part on any income arising on a subsequent disposition of the property or property substituted for the property ; and

(b) the subsequent disposition referred to in paragraph *a* occurs, or arrangements for the subsequent disposition are made, before the day that is three years after the particular time.

The deduction to which subparagraph i of subparagraph *a* of the first paragraph refers is a deduction, other than a deduction under section 726.7.1 in respect of a capital gain from a disposition of a share acquired by the taxpayer in an acquisition to which sections 530 to 533 or 620 to 625 applied, in computing income, taxable income, taxable income earned in Canada or tax payable under this Part.”

(2) Subsection 1 applies in respect of each disposition that is part of a series of transactions or events that begins after 26 April 1995, other than a disposition that occurred before 1 January 1996 to a person who was obliged on 26 April 1995 to acquire the property under the terms of an agreement in writing entered into on or before 26 April 1995. In addition, for the purposes of this subsection, a person is considered not to be obliged to acquire property where the person can be excused from the obligation if there is a change to the said Act or if there is an adverse assessment under the said Act.

101. (1) The said Act is amended by inserting, after section 427.4, the following sections :

“427.4.1. Notwithstanding sections 1010 to 1011, the Minister may make any assessments or reassessments of the tax, interest and penalties payable by the taxpayer referred to in section 427.4 that are necessary to give effect to that section 427.4

(*a*) within three years after the subsequent disposition referred to in subparagraph *a* of the first paragraph of section 424.4 ; and

(*b*) within four years after the subsequent disposition referred to in subparagraph *a* of the first paragraph of section 424.4 if, at the end of the taxation year that includes the particular time referred to in that first paragraph, the taxpayer is a mutual fund trust or a corporation other than a Canadian-controlled private corporation.

“427.4.2. For the purposes of section 427.4, where a taxpayer is incorporated or otherwise comes into existence at a particular time during a series of transactions or events, the taxpayer is deemed

(*a*) to have existed at the time that was immediately before the series of transactions or events began ; and

(*b*) to have been affiliated, at the time that was immediately before the series of transactions or events began, with every person with whom the taxpayer is affiliated, otherwise than because of a right referred to in paragraph *b* of section 20, at the particular time.”

(2) Subsection 1 applies in respect of each disposition that is part of a series of transactions or events that begins after 26 April 1995, other than a disposition that occurred before 1 January 1996 to a person who was obliged on 26 April 1995 to acquire the property under the terms of an agreement in



writing entered into on or before 26 April 1995. In addition, for the purposes of this subsection, a person is considered not to be obliged to acquire property where the person can be excused from the obligation if there is a change to the said Act or if there is an adverse assessment under the said Act.

102. (1) Section 452 of the said Act is replaced by the following :

“452. Subject to section 453, in computing the income of a taxpayer for the taxation year in which the taxpayer died, sections 153 and 208, subparagraph *b* of the first paragraph of section 234, paragraph *b* of section 234.0.1 and sections 357 and 358 do not apply and the portion of paragraph *a* of section 279 before subparagraph *i* shall be read as follows :

“(a) the gain for a particular taxation year from the disposition of the taxpayer’s former property is deemed to be equal to”.

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

103. (1) Section 467.1 of the said Act is amended by replacing paragraph *c.1* by the following :

“(c.1) by an environmental trust ; or”.

(2) Subsection 1 applies to taxation years that end after 22 February 1994.

104. (1) Section 485 of the said Act is amended

(1) by striking out the definition of “taxable dividend” ;

(2) by replacing the portion of the definition of “unrecognized loss” before paragraph *a* by the following :

““unrecognized loss” at a particular time, in respect of an obligation issued by a debtor, from the disposition of a property means the amount that would, but for section 240, be a capital loss from the disposition by the debtor at or before the particular time of a debt or other right to receive an amount, except that where the debtor is a corporation the control of which was acquired before the particular time and after the time of the disposition by a person or group of persons, the unrecognized loss at the particular time in respect of the obligation is deemed to be nil unless”.

(2) Subsection 1 applies to taxation years that end after 21 February 1994.

105. (1) Section 485.11 of the said Act is amended by replacing, in the French text of paragraph *b*, the word “société” by the words “société de personnes”.

(2) Subsection 1 has effect from 1 May 1998.

106. (1) Section 485.13 of the said Act is amended by replacing subparagraph ii of subparagraph *b* of the second paragraph by the following :

“ii. the residual balance at that time in respect of the settlement of the obligation;”.

(2) Subsection 1 applies to taxation years that end after 21 February 1994.

107. (1) Section 485.14 of the said Act is replaced by the following :

“485.14. For the purposes of section 485.13, the residual balance at any time in a taxation year in respect of the settlement of a particular commercial obligation issued by a debtor is the amount by which the gross tax attributes of directed persons at that time in respect of the debtor exceeds the aggregate of

(a) the amount determined under subparagraph *a* of the second paragraph of section 485.13 in respect of the settlement of the particular obligation at that time;

(b) all amounts each of which is

i. the amount by which the amount determined under subparagraph *a* of the second paragraph of section 485.13 in respect of a settlement before that time and in the year of a commercial obligation issued by the debtor exceeds the amount determined under subparagraph *c* of the second paragraph of that section in respect of the settlement,

ii. the amount determined under subparagraph *a* of the second paragraph of section 485.13 in respect of a settlement of a commercial obligation that is deemed under paragraph *a* of section 485.42 to have been issued by a directed person in respect of the debtor because of the filing of an agreement in accordance with sections 485.42 to 485.52 in respect of a settlement before that time and in the year of a commercial obligation issued by the debtor, or

iii. the amount specified in an agreement, other than an agreement with a directed person in respect of the debtor, filed in accordance with sections 485.42 to 485.52 in respect of the settlement before that time and in the year of a commercial obligation issued by the debtor; and

(c) the aggregate of all amounts each of which is an amount in respect of a settlement at a particular time before that time and in the year of a commercial obligation issued by the debtor equal to the least of

i. the aggregate of all amounts designated under section 485.11 in respect of the settlement,

ii. the residual balance of the debtor at the particular time, and

iii. the amount by which the aggregate of all amounts determined under subparagraphs *a* and *b* of the second paragraph of section 485.13 in respect of the settlement exceeds the amount determined under subparagraph *c* of the second paragraph of that section in respect of the settlement.”

(2) Subsection 1 applies to taxation years that end after 21 February 1994.

108. (1) The said Act is amended by inserting, after section 485.14, the following section :

“485.14.1. For the purposes of section 485.14, the gross tax attributes of directed persons at a particular time in respect of a debtor means the aggregate of all amounts each of which is an amount that would be applied under any of sections 485.4 to 485.10 and 485.12 in respect of a settlement of a separate commercial obligation, in this section referred to as a “notional obligation”, issued by directed persons at that time in respect of the debtor if the following assumptions were made :

(a) a notional obligation was issued immediately before the particular time by each of those directed persons and was settled at the particular time ;

(b) the forgiven amount at the particular time in respect of each of those notional obligations was equal to the total of all amounts each of which is a forgiven amount at or before that time and in the year in respect of a commercial obligation issued by the debtor ;

(c) amounts were designated under sections 485.6 to 485.10 by each of those directed persons to the maximum extent permitted in respect of the settlement of each of those notional obligations ; and

(d) no amounts were designated under section 485.11 by any of those directed persons in respect of the settlement of any of the notional obligations.”

(2) Subsection 1 applies to taxation years that end after 21 February 1994.

109. (1) Section 485.17 of the said Act is repealed.

(2) Subsection 1 applies to taxation years that end after 21 February 1994.

110. (1) Sections 485.37 to 485.39 of the said Act are repealed.

(2) Subsection 1 applies to taxation years that end after 21 February 1994.

111. (1) Section 485.40 of the said Act is amended

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

“485.40. For the purposes of sections 485 to 485.18 and 485.35, where at any time in a taxation year a person disposes of a property and the person

designates an amount in a prescribed form filed with the person's fiscal return under this Part for the year, the following rules apply:";

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

“(b) the lesser of the amount so designated and the amount that would, but for this section, be a capital gain determined in respect of the disposition because of section 485.35 shall be treated as if it were the forgiven amount at the time of the settlement in respect of the obligation referred to in paragraph *a*;"

(2) Subsection 1 applies to taxation years that end after 21 February 1994.

112. (1) Section 485.44 of the said Act is amended by striking out paragraph *d*.

(2) Subsection 1 applies to taxation years that end after 21 February 1994.

113. (1) The said Act is amended by inserting, after section 485.44, the following section :

“485.44.1. For the purposes of this Part, where a debtor and an eligible transferee enter into an agreement that is filed in accordance with this subdivision, no benefit shall be considered to have been conferred on the debtor as a consequence of the agreement.”

(2) Subsection 1 applies to taxation years that end after 21 February 1994.

114. (1) Section 485.49 of the said Act is amended by replacing paragraph *a* by the following :

“(a) where the transferee is a corporation, all taxes payable under this Part by it for taxation years that end in the period that begins at that time and ends four calendar years after that time;"

(2) Subsection 1 applies to taxation years that end after 21 February 1994.

115. Section 487.5.3 of the said Act is replaced, in the English text, by the following :

“487.5.3. For the purposes of sections 487.1 to 487.6, “home purchase loan” means that portion of any debt contracted by an individual in the circumstances described in sections 487.1 and 487.2 that is used to acquire, or to repay a debt that was contracted to acquire, a dwelling or a share of the capital stock of a housing cooperative acquired for the sole purpose of acquiring the right to inhabit a dwelling owned by the cooperative, where the dwelling is for the habitation of any of the persons described in section 487.5.4, or that is used to repay a home purchase loan.”

116. Section 488 of the said Act is amended by replacing the second paragraph by the following :

“Such amounts include those that sections 218 to 220 provide are not to be included in computing income and the payments that Title I of Book VII provides are not to be included in computing income.”

117. (1) Section 489 of the said Act is amended by striking out paragraphs *e* and *f*.

(2) Subsection 1 applies from the taxation year 1998.

118. (1) Section 527 of the said Act is replaced by the following :

“527. For the purposes of sections 93 to 104, 130 and 130.1 and of any regulations made for the purposes of paragraph *a* of section 130, where Divisions I and II or Division IV apply in respect of the disposition of depreciable property to a person and the capital cost to the transferor of the property exceeds the transferor’s proceeds of disposition of the property, the following rules apply :

(*a*) the capital cost to the transferee of the property is deemed to be equal to the amount that was its capital cost to the transferor; and

(*b*) the excess is deemed to have been allowed to the transferee as depreciation in respect of the property for the taxation years that ended before the time of disposition.”

(2) Subject to section 307, subsection 1 applies in respect of dispositions of property that occur after 26 April 1995.

119. (1) Sections 527.1 and 527.2 of the said Act are repealed.

(2) Subject to section 307, subsection 1 applies in respect of dispositions of property that occur after 26 April 1995.

120. Section 531 of the said Act is amended by replacing, in the French text, the words “à un associé” by the words “à l’un de ses membres”.

121. Section 532 of the said Act is amended by replacing the portion before paragraph *a* by the following :

“532. The cost to each member of the partnership of each property received or receivable by the member as consideration for the disposition of the member’s partnership interest on the winding-up of the partnership is deemed to be”.

122. (1) Division V of Chapter IV of Title IX of Book III of Part I of the said Act is repealed.

(2) Subject to section 307, subsection 1 applies in respect of dispositions of property that occur after 26 April 1995.

123. (1) Section 547.1 of the said Act is amended by replacing, in the first paragraph, “paragraph *d* of section 999.1” by “paragraph *e* of section 999.1”.

(2) Subsection 1 applies in respect of a corporation that becomes or ceases to be exempt from tax on its taxable income under Part I of the said Act after 26 April 1995.

124. (1) Sections 550.1 and 550.2 of the said Act are repealed.

(2) Subsection 1 applies from the taxation year 1995.

125. (1) Section 559 of the said Act is amended, in the third paragraph,

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

“(a) depreciable property, including a leasehold interest in a depreciable property and an option to acquire a depreciable property;”;

(2) by replacing subparagraph *c* by the following:

“(c) property acquired by the subsidiary from the parent or from any person or partnership that was not, otherwise than because of a right referred to in paragraph *b* of section 20, dealing at arm’s length with the parent, or any other property acquired by the subsidiary in substitution for it, where the acquisition was part of the series of transactions or events in which the parent last acquired control of the subsidiary; or”;

(3) by replacing the portion of subparagraph *d* before subparagraph *i* by the following:

“(d) property distributed to the parent on the winding-up where, as part of the series of transactions or events that includes the winding-up,”;

(4) by replacing the portion of subparagraph *ii* of subparagraph *d* before subparagraph 1 by the following:

“ii. any property distributed to the parent on the winding-up or any other property acquired by any person in substitution therefor is acquired by”;

(5) by replacing subparagraph 3 of subparagraph *ii* of subparagraph *d* by the following:

“(3) a corporation, other than a specified person, of which a particular person referred to in subparagraph 1 is, at any time during the course of the series of transactions or events and after control of the subsidiary was last acquired by the parent, a specified shareholder, or of which a particular person

would be, at any time during the course of the series of transactions or events and after control of the subsidiary was last acquired by the parent, a specified shareholder if all the shares then owned by persons, other than specified persons, referred to in subparagraph 2 and acquired by those persons as part of the series of transactions or events were owned at that time by the particular person.”

(2) Paragraphs 1, 3 and 4 of subsection 1 apply in respect of windings-up that begin after 20 June 1996, other than, in the case of paragraphs 3 and 4, windings-up that are part of an arrangement that was substantially advanced, as evidenced in writing, on 20 June 1996.

(3) Paragraph 2 of subsection 1 applies in respect of windings-up that begin after 31 December 1996.

(4) Paragraph 5 of subsection 1 applies in respect of windings-up that begin after 30 November 1994.

126. (1) Section 560.1 of the said Act is replaced by the following :

“560.1. For the purposes of sections 559 and 560, where the parent did not deal at arm’s length with another person at any time before the winding-up, the parent and the other person are deemed never to have dealt with each other at arm’s length, whether or not the parent and the other person coexisted.

The first paragraph does not apply if the other person is a corporation the control of which was acquired by the parent from a person with whom the parent dealt at arm’s length.”

(2) Subsection 1 applies in respect of windings-up that begin after 21 February 1994.

127. (1) Section 560.1.1 of the said Act is amended by adding, after paragraph *b*, the following paragraph :

“(c) in determining whether a person is a specified shareholder of a corporation,

i. the reference in section 21.17 to “or of any other corporation that is related to the corporation” shall be read as “or of any other corporation that is related to the corporation and that has a significant direct or indirect interest in any issued shares of the capital stock of the corporation”, and

ii. a corporation is deemed not to be a specified shareholder of itself.”

(2) Subsection 1 applies in respect of windings-up that begin after 30 November 1994.

128. (1) The said Act is amended by inserting, after section 560.1.1, the following sections :

“560.1.2. For the purposes of subparagraph ii of subparagraph *d* of the third paragraph of section 559, property acquired by any person in substitution for particular property or properties distributed to the parent on the winding-up includes the following property but not the property described in the second paragraph :

(*a*) property, other than a specified property, owned by the person at a particular time after the acquisition of control referred to in subparagraph i of that subparagraph *d* the fair market value of which is, at the particular time, wholly or partly attributable to the particular property or properties ; and

(*b*) property owned by the person at a particular time after the acquisition of control referred to in subparagraph i of that subparagraph *d* the fair market value of which is, at the particular time, determinable primarily by reference to the fair market value of, or to any proceeds from a disposition of, the particular property or properties.

The property to which the first paragraph refers is

(*a*) money ;

(*b*) property that was not owned by the person at a particular time after the acquisition of control referred to in subparagraph i of subparagraph *d* of the third paragraph of section 559 ; or

(*c*) property described in subparagraph *a* of the first paragraph if the only reason the property is described in that subparagraph is because a specified property described in any of subparagraphs *a* to *d* of the first paragraph of section 560.1.3 was received as consideration for the acquisition of a share of the capital stock of the subsidiary in the circumstances described in those subparagraphs *a* to *d*.

“560.1.3. For the purposes of section 560.1.2, a specified property is

(*a*) a share of the capital stock of the parent that was received as consideration for the acquisition of a share of the capital stock of the subsidiary by the parent or by a corporation that was a specified subsidiary corporation of the parent immediately before the acquisition ;

(*b*) an indebtedness that was issued by the parent as consideration for the acquisition of a share of the capital stock of the subsidiary by the parent ;

(*c*) a share of the capital stock of a taxable Canadian corporation that was received as consideration for the acquisition of a share of the capital stock of the subsidiary by the taxable Canadian corporation or by the parent where the parent was a specified subsidiary corporation of the taxable Canadian corporation immediately before the acquisition ;



(d) an indebtedness of a taxable Canadian corporation that was issued by it as consideration for the acquisition of a share of the capital stock of the subsidiary by the taxable Canadian corporation or by the parent where the parent was a specified subsidiary corporation of the taxable Canadian corporation immediately before the acquisition; or

(e) where the subsidiary was formed on the amalgamation of two or more particular corporations at least one of which was a subsidiary wholly-owned corporation of the parent, a share of the capital stock of the subsidiary that was issued on the amalgamation in exchange for a share of the capital stock of a particular corporation and that was, immediately after the amalgamation, redeemed, acquired or cancelled by the subsidiary for money and, where the subsidiary was formed on the amalgamation of two or more particular corporations at least one of which was a subsidiary wholly-owned corporation of the parent, a share of the capital stock of the parent that was issued on the amalgamation in exchange for a share of the capital stock of a particular corporation and that was, immediately after the amalgamation, redeemed, acquired or cancelled by the parent for money.

For the purposes of the first paragraph, a corporation is a specified subsidiary corporation of another corporation, at a particular time, where the other corporation holds, at that time, shares of the corporation

(a) that give the shareholder 90% or more of the votes that could be cast under all circumstances at an annual meeting of shareholders of the corporation; and

(b) having a fair market value of 90% or more of the fair market value of all the issued shares of the capital stock of the corporation.

“560.1.4. For the purposes of section 560.1.2 and notwithstanding section 21.4.2, where control of a corporation is acquired by way of articles of arrangement relating to the corporation, that control is deemed to have been acquired at the end of the day on which the arrangement becomes effective.”

(2) Subsection 1 applies in respect of windings-up that begin after 21 February 1994. However, where section 560.1.2 of the said Act, enacted by subsection 1, applies in respect of windings-up that begin before 21 June 1996 or windings-up that begin after 20 June 1996 and that are part of an arrangement that was substantially advanced, as evidenced in writing, on 20 June 1996, it shall be read as follows:

“560.1.2. For the purposes of subparagraph ii of subparagraph *d* of the third paragraph of section 559, property acquired by any person in substitution for particular property or properties includes property owned by the person at a particular time after the acquisition of control referred to in subparagraph i of that subparagraph *d* the fair market value of which is, at the particular time, determinable primarily by reference to the fair market value of, or to any proceeds from a disposition of, the particular property or properties, but does

not include money received as consideration for the disposition of the particular property or properties.”

129. (1) Section 560.2 of the said Act is amended by replacing the portion before subparagraph *a* of the third paragraph by the following :

“560.2. For the purposes of this paragraph and sections 559 and 560, the time at which a particular person or group of persons last acquired control of a subsidiary is, where control of the subsidiary was acquired from another person or group of persons, in this paragraph referred to as the “vendor”, with whom the particular person or group of persons was not dealing at arm’s length otherwise than solely because of a right referred to in paragraph *b* of section 20, deemed to be the earlier of

(*a*) the time at which the vendor last acquired control, within the meaning of paragraph *b* of section 739, with the necessary modifications, of the subsidiary; and

(*b*) the time at which the vendor is deemed for the purposes of this paragraph to have last acquired control of the subsidiary.

For the purposes of the first paragraph and sections 559 and 560, where control of a corporation is last acquired by a particular person or group of persons because of an acquisition of shares of the capital stock of the corporation as a consequence of the death of an individual, the particular person or group of persons is deemed to have last acquired control of the corporation immediately after the death from a person who dealt at arm’s length with the particular person or group of persons.

For the purposes of the first paragraph and sections 559 and 560, the following rules apply:”.

(2) Subsection 1 applies in respect of windings-up that begin after 20 December 1991.

130. (1) Section 561 of the said Act is replaced by the following :

“561. Section 505 and sections 36 to 41.2 of the Act respecting the application of the Taxation Act (chapter I-4) do not apply to a winding-up described in section 556, and sections 93.3.1 and 106.4 do not apply to such a winding-up with respect to property acquired by the parent on the winding-up.”

(2) Subsection 1 applies in respect of windings-up that begin after 26 April 1995. However, where section 561 of the said Act, enacted by subsection 1, applies in respect of windings-up that began before 1 January 1996, it shall be read with “93.3.1 and 106.4” replaced by “93.3.1, 106.4, 527.1 and 527.2”.

131. (1) The said Act is amended by inserting, after section 564.4.4, the following section :

“564.4.5. For the purposes of sections 564.2 to 564.4.4, a corporation’s business that is at any time an adventure or concern in the nature of trade is deemed to be a business carried on at that time by the corporation.”

(2) Subsection 1 applies to taxation years that end after 20 December 1995. In addition, it applies, in respect of a business that is an adventure or concern in the nature of trade, to taxation years of a taxpayer that end before 21 December 1995, except where

(1) the taxpayer’s filing-due date for the year is after 20 December 1995 ;  
or

(2) the taxpayer has valued the inventory of the business for the purpose of computing income for the year from the business at an amount that is less than the cost at which the taxpayer acquired the property, which valuation has been taken into account in a fiscal return filed under Part I of the said Act before 21 December 1995 or has been the subject of a notice of objection served on the Minister of Revenue or a notice of appeal filed before that date.

132. (1) Section 564.6 of the said Act is repealed.

(2) Subsection 1 applies from the taxation year 1995.

133. (1) Section 590 of the said Act is amended by replacing the portion before paragraph *a* by the following :

“590. Where a taxpayer resident in Canada or a foreign affiliate of the taxpayer acquires shares of a foreign affiliate of the taxpayer, in paragraph *b* referred to as the “acquired affiliate”, on the disposition of shares of any other foreign affiliate of the taxpayer, other than a disposition to which section 238.1 applies, the following rules apply :”.

(2) Subject to section 307, subsection 1 applies in respect of dispositions of property that occur after 26 April 1995.

134. (1) Section 609 of the said Act is amended by replacing paragraph *b* by the following :

“(b) the spouse, succession or legatee by particular title of the taxpayer referred to in paragraph *a* or a person referred to in section 611.”

(2) Subsection 1 has effect from 18 June 1998.

135. (1) Section 613 of the said Act is amended

(1) by replacing “217.9” by “217.9.1”;

(2) by inserting, after “217.15”, “, section 217.17”.

(2) Subsection 1 has effect from 1 January 1996.

136. (1) Section 614 of the said Act is amended by replacing the portion of the second paragraph before subparagraph *a* by the following :

“Notwithstanding any other provision of this Part, other than section 93.3.1, where a taxpayer disposes of any property that is a capital property, Canadian resource property, foreign resource property, intangible capital property or inventory to a partnership that, immediately after the disposition, is a Canadian partnership of which the taxpayer is a member, and the taxpayer and all the other members of the partnership make a valid election for the purposes of subsection 2 of section 97 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the disposition, the following rules apply :”.

(2) Subject to section 307, subsection 1 applies in respect of dispositions of property that occur after 26 April 1995. However, where the portion of the second paragraph of section 614 of the said Act before subparagraph *a*, enacted by subsection 1, applies in respect of dispositions that occur before 26 March 1997, it shall be read as follows :

“Notwithstanding any other provision of this Part, other than section 93.3.1, where a taxpayer disposes of any property that is a capital property, Canadian resource property, foreign resource property, intangible capital property or inventory to a partnership that, immediately after the disposition, is a Canadian partnership of which the taxpayer is a member, the taxpayer and all the other members of the partnership may jointly elect in prescribed form within the time provided in section 604 that the following rules apply :”.

137. (1) Sections 615 and 616 of the said Act are repealed.

(2) Subject to section 307, subsection 1 applies in respect of dispositions of property that occur after 26 April 1995.

138. (1) Section 646 of the said Act is amended by replacing the first paragraph by the following :

“646. In this Part, a trust, wherever it is created, or a succession, in this Title referred to as a “trust”, also includes the trustee or other legal representative having ownership or control of the property of the trust.”

(2) Subsection 1 has effect from 18 June 1998.

139. (1) Section 647 of the said Act is amended by replacing subparagraph *d* of the third paragraph by the following :

“(d) a cemetery care trust or a trust governed by an eligible funeral arrangement.”

(2) Subsection 1 applies from the taxation year 1993.

140. (1) Section 649 of the said Act is amended

(1) by replacing, in the French text, the portion of paragraph *a* before subparagraph i by the following :

“*a*) soit les unités émises de la fiducie représentant une valeur d’au moins 95 % de la juste valeur marchande de toutes les unités émises, établie sans tenir compte du droit de vote qui peut être attaché aux unités, sont :”;

(2) by striking out, at the end of subparagraph ii of paragraph *a*, the word “or”;

(3) by replacing the portion of paragraph *b* before subparagraph i by the following :

“(b) it complies, throughout the taxation year in which the particular time occurs, with the following conditions and, where the trust would not be a unit trust at the particular time if subparagraph iii were read without reference to subparagraph 6, the units of the trust are listed at any time in the year that includes the particular time or in the following taxation year on a prescribed stock exchange in Canada :”;

(4) by replacing subparagraphs 1 and 2 of subparagraph ii of paragraph *b* by the following :

“(1) the investing of its funds in property, other than immovable property or an interest in immovable property,

“(2) the acquiring, holding, maintaining, improving, leasing or managing of any immovable property, or interest in immovable property, that is capital property of the trust, or”;

(5) by replacing subparagraph iii of paragraph *b* by the following :

“iii. at least 80% of its property consists of any combination of

(1) shares,

(2) any property that, under the terms or conditions of which or under an agreement, is convertible into, is exchangeable for or confers a right to acquire, shares,

(3) cash,

(4) bonds, obligations secured by mortgage, debentures, notes and other similar obligations,

(5) marketable securities,

(6) immovable property situated in Canada and interests in such property, and

(7) rights to and interests in any rental or royalty computed by reference to the volume or value of production from a natural accumulation of petroleum or natural gas in Canada, from an oil or gas well in Canada or from a mineral resource in Canada,”;

(6) by striking out paragraph *c*;

(7) by adding, after paragraph *c*, the following paragraph:

“(d) the following conditions are met:

i. the fair market value of the property of the trust at the end of the year 1993 was primarily attributable to immovable property, or an interest in immovable property,

ii. the trust was a unit trust throughout any calendar year before the year 1994, and

iii. the fair market value of the property of the trust at the particular time is primarily attributable to property described in paragraph *a* or *b* of the definition of “qualified investment” in section 204 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), immovable property, or an interest in immovable property, or any combination of those properties.”

(2) Subsection 1 applies from the taxation year 1994.

141. (1) Section 652.1 of the said Act is amended by replacing the definition of “excluded property” by the following:

““excluded property” means a share of the capital stock of an investment corporation owned by persons not resident in Canada that is not taxable Canadian property;”.

(2) Subsection 1 has effect from 27 April 1995.

142. (1) Section 657.1 of the said Act is replaced by the following:

“657.1. Notwithstanding paragraph *a* of section 657,

(*a*) where that section applies to an employee trust, the amount that may be deducted by the trust under that paragraph *a* is equal to the amount by which

the amount that would, but for this section and that paragraph *a*, be its income for the year exceeds the amount by which the aggregate of its income for the year from a business exceeds the aggregate of its losses for the year from a business; and

(*b*) where that section applies to a trust governed by an employee benefit plan or a trust the taxable income of which for the year is subject to tax under this Part because of section 921.1 or 961.16.1, the amount that may be deducted by such a trust under that paragraph *a* is equal to the part of the amount that, but for this section and that paragraph *a*, would be the income of the trust for the year, to the extent that that part is paid in the year to a beneficiary.”

(2) Subsection 1 applies from the taxation year 1996.

143. (1) Section 658 of the said Act is amended

(1) by replacing the definition of “preferred beneficiary” by the following :

““preferred beneficiary” under a trust for a taxation year of the trust means a beneficiary under the trust at the end of the year who is resident in Canada at that time if

(*a*) the beneficiary is

i. an individual in respect of whom paragraphs *a* to *c* of section 752.0.14 apply for the individual’s taxation year, in this definition referred to as the “beneficiary’s year”, that ends in the taxation year of the trust, or

ii. an individual

(1) who attained the age of 18 years before the end of the beneficiary’s year, was a dependant of another individual for the beneficiary’s year and was dependent on the other individual because of mental or physical infirmity, and

(2) whose income, computed without reference to section 659, for the beneficiary’s year does not exceed the amount used for that year under clause B of subparagraph ii of paragraph *a* of the definition of “preferred beneficiary” in subsection 1 of section 108 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement); and

(*b*) the beneficiary is

i. the settlor of the trust,

ii. the spouse or former spouse of the settlor of the trust, or

iii. a child, grandchild or great grandchild of the settlor of the trust or the spouse of any such person;”;

(2) by adding the following paragraph:

“In the first paragraph, a dependant of an individual for a taxation year means a person who, during the year, is described in paragraph *b* or *f* of section 752.0.1.”

(2) Subsection 1 applies to trust taxation years that end after 31 December 1996.

144. (1) The said Act is amended by inserting, after section 659.1, enacted by section 56 of chapter 83 of the statutes of 1999, the following section:

“659.2. A trust and a preferred beneficiary under the trust may, for a taxation year that includes 22 February 1994, jointly make an election, or amend or revoke an election made, under section 659, as it read for that year, where the election, amendment or revocation

(*a*) is made solely because of an election or revocation to which section 726.9.8, 726.9.9 or 726.9.10 applies; and

(*b*) is filed with the Minister in the manner prescribed for the purposes of section 659 when the election or revocation referred to in subparagraph *a* is filed.

An election that is made or amended in accordance with the first paragraph in respect of the taxation year referred to in that paragraph is deemed to have been made on time for the purposes of section 659, as it read for that taxation year, and the election that is revoked in accordance with the first paragraph is deemed, otherwise than for the purposes of this section, never to have been made.”

(2) Subsection 1 applies in respect of taxation years that include 22 February 1994. However, an election under section 659 of the said Act, or the amendment or revocation of such an election, made by a trust and a preferred beneficiary under the trust by notifying the Minister of Revenue in writing within 90 days after the end of the taxation year of the trust that includes 11 May 2000, is deemed to have been made in accordance with section 659.2 of the said Act, as enacted by subsection 1.

145. (1) Section 667 of the said Act is replaced by the following:

“667. For the purposes of subparagraph 3 of subparagraph i.1 of paragraph *n* of section 257, the third and fourth paragraphs of section 686 and sections 742 and 744.2, the portion of the aggregate of all amounts each of which is the amount of a dividend, other than a taxable dividend, paid to a trust in a taxation year throughout which it was resident in Canada, in respect of a share of the capital stock of a corporation resident in Canada, that may reasonably be considered, having regard to the circumstances and the terms and conditions of the trust arrangement, to be part of an amount that became



payable in the year to a beneficiary under the trust shall be designated by the trust, in its fiscal return for the year, in respect of the beneficiary.”

(2) Subsection 1 has effect from 27 April 1995.

146. (1) The said Act is amended by inserting, after section 668.0.1, the following section:

“668.0.2. A trust that has filed its fiscal return for its taxation year that includes 22 February 1994 may subsequently designate an amount under section 668 for that year, or amend or revoke a designation made under that section for that year where the designation, amendment or revocation

(a) is made solely because of an increase or decrease in the net taxable capital gains of the trust for the year that results from an election or revocation to which section 726.9.8, 726.9.9 or 726.9.10 applies; and

(b) is filed with the Minister, with an amended fiscal return for the year, when the election or revocation referred to in subparagraph *a* is filed with the Minister.

A designation, amendment or revocation made in accordance with the first paragraph for the taxation year referred to in that paragraph that affects an amount determined in respect of a beneficiary under section 668.1 may be made only where the trust

(a) designates an amount, or amends or revokes a designation made, under section 668.1 for that year in respect of the beneficiary; and

(b) files the designation, amendment or revocation referred to in subparagraph *a* with the Minister when required by subparagraph *b* of the first paragraph.

Where a trust designates an amount, or amends or revokes a designation, under section 668 or 668.1 in accordance with this section, the designation or amended designation, as the case may be, is deemed to have been made in the trust’s fiscal return for the trust’s taxation year that includes 22 February 1994, and the designation that was revoked is deemed, other than for the purposes of this section, never to have been made.”

(2) Subsection 1 applies in respect of taxation years that include 22 February 1994. However, a designation made under section 668 or 668.1 of the said Act, or the amendment or revocation of such a designation, made by a trust by notifying the Minister of Revenue in writing within 90 days after the end of the taxation year of the trust that includes 11 May 2000, is deemed to have been made in accordance with section 668.0.2 of the said Act, as enacted by subsection 1.

147. (1) Sections 686 and 687 of the said Act are replaced by the following :

“686. In computing a taxpayer’s taxable capital gain from the disposition of property that is all or any part of the taxpayer’s capital interest in a personal trust or a prescribed trust, the adjusted cost base to the taxpayer of the property immediately before the disposition is deemed to be equal to the greater of its adjusted cost base, otherwise determined, to the taxpayer immediately before the disposition and the amount by which its cost amount to the taxpayer immediately before the disposition exceeds the aggregate of all amounts deducted under paragraph *b.1* of section 257 in computing its adjusted cost base to the taxpayer immediately before the disposition, and, in computing an allowable capital loss, the adjusted cost base is the adjusted cost base otherwise determined.

The presumption referred to in the first paragraph does not apply in the case of the disposition of such an interest or of such part of an interest in an *inter vivos* trust not resident in Canada that was purchased by the taxpayer, except if section 688 applies to the taxpayer.

Where a taxpayer other than a mutual fund trust disposes of all or any part of the capital interest in a trust, the taxpayer’s loss from the disposition is deemed to be equal to the amount by which the amount of that loss otherwise determined exceeds the amount by which

(a) the aggregate of all amounts each of which is an amount that was received or would, but for section 666, have been received by the trust on a share of the capital stock of a corporation before the disposition, and, where the trust is a unit trust, after 31 December 1987, and

i. where the taxpayer is a corporation,

(1) was a taxable dividend that was designated under section 666 by the trust in respect of the taxpayer, to the extent that the amount of the dividend was deductible because of sections 738 to 745 or section 845 or 1091 in computing the taxpayer’s taxable income or taxable income earned in Canada for any taxation year, or

(2) was an amount designated under section 667 by the trust in respect of the taxpayer,

ii. where the taxpayer is another trust, was an amount designated under section 666 or 667 by the trust in respect of the taxpayer, and

iii. where the taxpayer is not a corporation, trust or partnership, was an amount designated under section 667 by the trust in respect of the taxpayer ; exceeds

(b) the portion of the aggregate determined in accordance with subparagraph *a* that may reasonably be considered to have resulted in a

reduction, under this paragraph, of the taxpayer's loss otherwise determined from a previous disposition of an interest in the trust.

Where a partnership disposes of all or any part of the capital interest in a trust, the share of a person, other than another partnership or a mutual fund trust, of any loss of the partnership from the disposition is deemed to be equal to the amount by which the amount of that loss otherwise determined exceeds the amount by which

(a) the aggregate of all amounts each of which is an amount that was received or would, but for section 666, have been received by the trust on a share of the capital stock of a corporation before the disposition, and, where the trust is a unit trust, after 31 December 1987, and

i. where the person is a corporation,

(1) was a taxable dividend that was designated under section 666 by the trust in respect of the partnership, to the extent that the amount of the dividend was deductible because of sections 738 to 745 or section 845 or 1091 in computing the person's taxable income or taxable income earned in Canada for any taxation year, or

(2) was a dividend designated under section 667 by the trust in respect of the partnership and was an amount received by the person,

ii. where the person is an individual other than a trust, was a dividend designated under section 667 by the trust in respect of the partnership and was an amount received by the person, and

iii. where the person is another trust, was a dividend designated under section 666 or 667 by the trust in respect of the partnership and was an amount received by the person, or that would have been received by the person if this Part were read without reference to section 666; exceeds

(b) the portion of the aggregate determined in accordance with subparagraph *a* that may reasonably be considered to have resulted in a reduction, under this paragraph, of the person's loss otherwise determined from a previous disposition of an interest in the trust.

“687. For the purposes of section 686 and notwithstanding paragraph *a* of section 422, the cost to a taxpayer of a capital interest in a trust, other than an interest acquired by the taxpayer from a person who was the beneficiary in respect of the interest immediately before its acquisition by the taxpayer or an interest issued to the taxpayer for consideration paid by the taxpayer that is equal to the fair market value of the interest at the time of issuance, is deemed to be

(a) where the taxpayer elects under section 726.9.2 in respect of the interest and the trust does not elect under that section in respect of any

property of the trust, equal to the taxpayer's cost of the interest determined under subparagraph *a* of the first paragraph of section 726.9.2; and

(*b*) in any other case, nil.”

(2) Subsection 1, where it replaces section 686 of the said Act, applies in respect of dispositions that occur after 26 April 1995 and, where it replaces section 687 of the said Act, applies from the taxation year 1994.

However,

(1) where the third and fourth paragraphs of section 686 of the said Act, enacted by subsection 1, have effect before 30 October 1996, they shall be read with the words “fiducie de fonds commun de placements”, in the French text of the portion before subparagraph *a*, replaced by the words “fiducie de fonds mutuels”;

(2) where the third paragraph of section 686 of the said Act, enacted by subsection 1, applies in respect of dispositions that occur before 1 January 1998, it shall be read with the word “loss”, wherever it appears in the portion before subparagraph *a*, replaced by the words “capital loss”.

148. (1) Section 688 of the said Act is amended by replacing paragraph *b* by the following:

“(b) the taxpayer is, subject to section 688.2, deemed to acquire the property at a cost equal to the aggregate of its cost amount to the trust immediately before that time and the amount by which the adjusted cost base to the taxpayer of the capital interest or part thereof, otherwise determined without reference to section 686, exceeds the cost amount to the taxpayer of that interest or part thereof immediately before that time;”.

(2) Subsection 1 applies in respect of transfers of property made after 31 December 1993.

149. (1) Section 688.1 of the said Act is amended by replacing the portion before paragraph *a* by the following:

“688.1. Notwithstanding any other provision of this Part, other than Title I.2 of Book VI, where at a particular time a trust transfers a property owned by it to a taxpayer who is a beneficiary under the trust as consideration for all or any part of the taxpayer's capital interest in the trust or of a right described in section 306 and section 688 does not apply in respect of the transfer, the following rules apply:”.

(2) Subsection 1 applies in respect of transfers of property made after 30 June 1994.

150. (1) The said Act is amended by inserting, after section 688.1, the following section:

“688.2. Where at any time before 1 January 2005 a trust referred to in paragraph *c*, *d* or *e* of the definition of “flow-through entity” in the first paragraph of section 251.1 transfers property to a beneficiary under the trust as consideration for all or a portion of the beneficiary’s interests in the trust and the beneficiary files with the Minister an election in respect of the property on or before the beneficiary’s filing-due date for the taxation year that includes that time, the beneficiary shall include in the cost to the beneficiary of a particular property, other than money, received by the beneficiary as part of the transfer of property the least of

(a) the amount by which the beneficiary’s exempt capital gains balance, within the meaning of section 251.1, in respect of the trust for the beneficiary’s taxation year that includes that time exceeds the aggregate of all amounts each of which is

i. an amount by which a capital gain is reduced under Chapter II.1 of Title IV of Book III in the year because of the beneficiary’s exempt capital gains balance in respect of the trust,

ii.  $\frac{4}{3}$  of an amount by which a taxable capital gain is reduced under Chapter II.1 of Title IV of Book III in the year because of the beneficiary’s exempt capital gains balance in respect of the trust, or

iii. an amount included in the cost to the beneficiary of another property received by the beneficiary at or before that time in the year because of this section;

(b) the amount by which the fair market value of the particular property at that time exceeds the adjusted cost base to the trust of the particular property immediately before that time; and

(c) the amount designated in respect of the particular property in the election.”

(2) Subsection 1 applies in respect of transfers of property made after 31 December 1993. However, an election under section 688.2 of the said Act, enacted by subsection 1, made by a beneficiary under a trust by notifying the Minister of Revenue in writing on or before the beneficiary’s filing-due date for the taxation year that includes 11 May 2000, is deemed to have been made in accordance with that section 688.2.

151. (1) Section 690.0.1 of the said Act is amended by replacing paragraph *b* by the following:

“(b) neither the vendor nor a person that would, but for the definition of “controlled” in section 21.0.1, be affiliated with the vendor had a capital interest in the trust.”

(2) Subsection 1 has effect from 27 April 1995.

152. (1) Section 692.1 of the said Act is amended

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

“692.1. Where a taxpayer is a beneficiary under an environmental trust in a taxation year of the trust, in this section referred to as the “trust’s year”, that ends in a particular taxation year of the taxpayer, the following rules apply :”;

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

“(b) if the taxpayer is not resident in Canada at any time in the particular year and an income or loss described in paragraph *a* or an amount to which paragraph *z* or *z.1* of section 87 applies would not otherwise be included in computing the taxpayer’s taxable income or taxable income earned in Canada, as the case may be, notwithstanding any other provision of this Act, the income, the loss or the amount shall be attributed to the carrying on of business in Canada by the taxpayer through a fixed place of business located in the province in which the site to which the trust relates is situated.”

(2) Subsection 1 applies to taxation years that end after 18 February 1997.

153. (1) Section 725.1.2 of the said Act is amended by replacing subparagraph *b* of the second paragraph by the following :

“(b) a benefit under the Labour Adjustment Benefits Act (Revised Statutes of Canada, 1985, chapter L-1), the Unemployment Insurance Act (Revised Statutes of Canada, 1985, chapter U-1) or the Employment Insurance Act (Statutes of Canada, 1996, chapter 23) or under the Act respecting the Québec Pension Plan (chapter R-9) or a similar plan within the meaning of that Act;”.

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

154. (1) Section 726.4.17.12 of the said Act is amended, in the portion of the first paragraph before the formula, by striking out “within the meaning of section 359.1”.

(2) Subsection 1 has effect from 1 December 1994.

155. (1) Section 726.6.1 of the said Act is amended by adding, after subparagraph ii of subparagraph *i* of the second paragraph, the following subparagraph :

“iii. as payment of a stock dividend ; and”.

(2) Subsection 1 applies in respect of dispositions of shares that occur after 17 June 1987.

156. (1) Section 726.9.10 of the said Act is replaced by the following :

“726.9.10. Subject to section 726.9.11, an election made under section 726.9.2 in respect of a property or a business is deemed to be amended and the election, as amended, is deemed, for the purposes of this Title, other than section 726.9.12, to have been filed within the time prescribed in section 726.9.7 if an amended election in prescribed form in respect of the property or the business is filed with the Minister on or before 31 December 1997 and an estimate of the penalty under section 726.9.12 is paid by the elector when the amended election is filed with the Minister.”

(2) Subsection 1 applies from the taxation year 1994.

157. (1) Section 726.9.11 of the said Act is replaced by the following :

“726.9.11. An election made under section 726.9.2 cannot be revoked or amended where the amount designated in the election exceeds the product obtained by multiplying 11/10 by

(a) if the election is in respect of a property other than an interest in a partnership, the fair market value of the property at the end of 22 February 1994;

(b) if the election is in respect of an interest in a partnership, the greater of \$1 and the fair market value of the property at the end of 22 February 1994; and

(c) if the election is in respect of a business, the greater of \$1 and the fair market value at the end of 22 February 1994 of all the intangible capital property owned at that time by the elector in respect of the business.”

(2) Subsection 1 applies from the taxation year 1994.

158. (1) Section 726.20.1 of the said Act is amended by striking out the definition of “flow-through share”.

(2) Subsection 1 has effect from 1 December 1994.

159. (1) The said Act is amended by inserting, after section 736.0.1.1, the following section :

“736.0.1.2. For the purposes of sections 736.0.1 and 736.0.1.1, a corporation’s business that is at any time an adventure or concern in the nature of trade is deemed to be a business carried on at that time by the corporation.”

(2) Subsection 1 applies to taxation years that end after 20 December 1995. In addition, it applies, in respect of a business that is an adventure or concern in the nature of trade, to taxation years of a taxpayer that end before 21 December 1995, except where

(1) the taxpayer's filing-due date for the year is after 20 December 1995;  
or

(2) the taxpayer has valued the inventory of the business for the purpose of computing income for the year from the business at an amount that is less than the cost at which the taxpayer acquired the property, which valuation has been taken into account in a fiscal return filed under Part I of the said Act before 21 December 1995 or has been the subject of a notice of objection served on the Minister of Revenue or a notice of appeal filed before that date.

160. (1) Section 737.19 of the said Act, amended by section 81 of chapter 83 of the statutes of 1999 and by section 99 of chapter 86 of the statutes of 1999, is again amended by replacing subparagraph i of paragraph *b* by the following:

“i. a person exempt from tax under section 984 or 985 or that would be exempt from tax under section 985 but for section 192;”.

(2) Subsection 1 applies to taxation years or fiscal periods that begin after 31 December 1998.

161. (1) The said Act is amended by inserting, after section 737.19, the following section:

“737.19.1. In determining, for the purposes of this Title, whether work undertaken by or on behalf of a partnership constitutes scientific research and experimental development, the references in subsection 3 of section 222 to “taxpayer” shall be read as references to “partnership”.”

(2) Subsection 1 applies in respect of work undertaken after 27 February 1995.

162. Section 752.0.10.1 of the said Act, amended by section 90 of chapter 83 of the statutes of 1999, is again amended by replacing, in the English text of paragraph *b* of the definition of “total charitable gifts” in the first paragraph, the word “registered” by the word “prescribed”.

163. (1) Section 752.0.11 of the said Act is amended by replacing the portion of subparagraph *b* of the second paragraph before subparagraph i by the following:

“(b) B is the aggregate of the medical expenses described in section 752.0.11.1 that are proven by filing a receipt therefor with the Minister, that were not included in computing a determined amount, for the purposes of this section or section 1029.8.118, in respect of a preceding taxation year by the individual or by any other person and that were paid by either the individual or the individual's legal representative, or by a person who is the individual's spouse during the year or on the date on which the person pays the individual's medical expenses.”.



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

164. (1) Section 752.0.11.1 of the said Act is amended

(1) by replacing, in the portion of paragraph *m.1* before subparagraph *i*, “\$5,000, or \$10,000” by “\$10,000, or \$20,000”;

(2) by inserting, after paragraph *o.1*, the following paragraphs :

“(o.2) on behalf of a person who has a speech or hearing impairment, for sign language interpretation services, to the extent that the payment is made to a person engaged in the business of providing such services ;

“(o.3) for reasonable moving expenses, described in section 350, of a person who lacks normal physical development or has a severe and prolonged mobility impairment, other than expenses deducted under section 348 for any taxation year, incurred for the purpose of the person’s move to a new dwelling that is more accessible by the person or in which the person is more mobile or functional, if the total of the expenses claimed under this paragraph does not exceed \$2,000 ;

“(o.4) for reasonable expenses relating to alterations to the driveway of the principal place of residence of a person who has a severe and prolonged mobility impairment, to facilitate the person’s access to a bus ;

“(o.5) for a van that, at the time of its acquisition or within six months after that time, has been adapted for the transportation of a person who requires the use of a wheelchair, to the extent of the lesser of \$5,000 and 20% of the amount by which the amount paid for the acquisition of the van exceeds the portion of that amount that is included because of paragraph *s* in computing an amount deductible by the person under section 752.0.11 for any taxation year ;” ;

(3) by replacing paragraph *s* by the following :

“(s) for any device or equipment not otherwise described in this section, if it is used by a person as prescribed by a practitioner, is prescribed by regulation and meets such conditions as may be prescribed as to its use or the reason for its acquisition, but only to the extent that the amounts so paid do not exceed the amount, if any, prescribed in respect of the device or equipment.”

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

165. (1) Section 752.0.13 of the said Act is replaced by the following :

“752.0.13. For the purposes of subparagraph *b* of the second paragraph of section 752.0.11, there shall not be included as a medical expense of an individual any expense to the extent that the individual, the individual’s spouse, a particular person referred to in section 752.0.12 who is a dependant

of the individual, any person related to the individual, the individual's spouse or that particular person, or the legal representative of any of them is entitled to be reimbursed for the expense, except to the extent that the amount of the reimbursement is required to be included in computing income and is not deductible in computing taxable income."

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

166. (1) Section 752.0.14 of the said Act is amended by replacing paragraph *b* by the following :

"(b) a physician or, where the individual has a sight impairment, a physician or an optometrist, or, where the individual has a hearing impairment, a physician or an audiologist has certified in prescribed form that the individual has an impairment referred to in paragraph *a* ;".

(2) Subsection 1 applies in respect of certifications made after 18 February 1997.

167. (1) Section 752.0.18 of the said Act is amended by replacing the portion before subparagraph *a* of the first paragraph by the following :

"752.0.18. For the purposes of sections 752.0.11 to 752.0.16 and 1029.8.67 to 1029.8.81, a reference to an audiologist, dentist, nurse, physician, optometrist, pharmacist or practitioner is a reference to a person authorized to practise as such".

(2) Subsection 1 has effect from 19 February 1997.

168. (1) Section 752.0.18.10 of the said Act is amended by replacing paragraph *a* by the following :

"(a) the amount of the individual's tuition fees paid in respect of the year or a preceding year if that year is subsequent to the taxation year 1996, where the individual was, in the year in respect of which those fees are paid, an enrolled student and the fees are paid to one of the following educational institutions and where the conditions set out in section 752.0.18.13 are met in respect of that amount :

i. an educational institution in Canada that is a university, college or other institution providing post-secondary education, if the fees are paid in respect of an instructional program at the post-secondary school level,

ii. an educational institution in Canada recognized by the Minister to be an institution providing courses, other than courses designed for university credit, that furnish a person with skills for, or improve a person's skills in, an occupation,

iii. an educational institution in the United States that is a university, college or other institution providing post-secondary education, if the individual resided in Canada throughout the year near the boundary between Canada and the United States, commuted between the individual's residence and the educational institution and paid the fees in respect of an instructional program at the post-secondary school level, or

iv. a university outside Canada if the individual pursued full-time studies leading to a degree, for a period of at least thirteen consecutive weeks; and".

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

169. (1) The said Act is amended by inserting, after section 752.0.18.10, the following section:

"752.0.18.10.1. For the purposes of section 752.0.18.10, the tuition fees of an individual include ancillary fees and charges that are paid to an educational institution referred to in subparagraph i of paragraph *a* of section 752.0.18.10 in respect of the individual's enrolment in a program at a post-secondary school level, but does not include

(*a*) any fee or charge to the extent that it is levied in respect of

i. a student association,

ii. property to be acquired by students,

iii. services not ordinarily provided at educational institutions in Canada that offer courses at a post-secondary school level,

iv. the provision of financial assistance to students, except to the extent that, if the portion of section 312.2 before paragraph *a* were read without reference to "greater of \$500 and the aggregate of all amounts each of which is the", the amount of the assistance would, under paragraph *g* of section 312, be required to be included in computing the income, and not be deductible in computing the taxable income, of the students to whom the assistance is provided, or

v. the construction, renovation or maintenance of any building or facility, except to the extent that the building or facility is owned by the educational institution and used to provide

(1) courses at the post-secondary school level, or

(2) services for which, if fees or charges in respect of the services were required to be paid by all students of the educational institution, the fees or charges would be included because of this section in the fees for an individual's tuition; and

(b) any fee or charge for a taxation year that, but for this paragraph, would be included because of this section in the fees for the individual's tuition and that is not required to be paid by all of the educational institution's full-time students, where the individual is a full-time student at the educational institution, and all of the educational institution's part-time students, where the individual is a part-time student at the educational institution, to the extent that the total amount for the year of all such fees and charges paid in respect of the individual's enrolment at the institution exceeds \$250."

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

170. (1) Section 752.0.18.12 of the said Act is amended by replacing paragraph *b* by the following :

“(b) where the tuition fees are paid to an educational institution referred to in subparagraph i or ii of paragraph *a* of section 752.0.18.10,

i. the fees in respect of which the individual is or was entitled to receive a reimbursement or any form of assistance under a program of the State or of Her Majesty in right of Canada or a province designed to facilitate the entry or re-entry of workers into the labour force, where the amount of the reimbursement or assistance, as the case may be, is not included in computing the individual's income, or

ii. the fees paid on the individual's behalf, or in respect of which the individual is or was entitled to receive a reimbursement, under a program of Her Majesty in right of Canada designed to assist athletes, where the payment or reimbursement, as the case may be, is not included in computing the individual's income;”.

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

171. (1) Section 771.13 of the said Act, replaced by section 107 of chapter 83 of the statutes of 1999, is amended by replacing paragraph *b* by the following :

“(b) the corporation would be exempt from tax for the year under section 985 but for section 192; or”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1998.

172. (1) Section 772.13 of the said Act is amended by striking out the second paragraph.

(2) Subsection 1 has effect from 27 April 1995.

173. (1) Section 776.42 of the said Act is amended by replacing the portion before paragraph *a* by the following :

“776.42. Notwithstanding any other provision of this Act, where the amount that would represent the tax otherwise payable by an individual for a taxation year if it were computed under Book V and without reference to sections 752.1 to 752.5 is less than the excess amount determined under subparagraph i of paragraph *a* in respect of the individual, the tax payable under this Part by the individual for the year is equal to the amount by which”.

(2) Subsection 1 applies from the taxation year 1992. However, where the portion of section 776.42 of the said Act before paragraph *a*, enacted by subsection 1, applies to the taxation years 1994 to 1997, it shall be read with “other than section 776.66,” inserted after “this Act,” and with “752.5” replaced by “752.5 and 776.66”.

174. (1) Section 776.45 of the said Act is amended by inserting, after paragraph *d*, the following paragraph:

“(d.1) a taxation year of a trust throughout which the trust is a segregated fund trust, within the meaning of paragraph *k* of section 835, a mutual fund trust, or a master trust within the meaning of the regulations made under paragraph *c.4* of section 998;”.

(2) Subsection 1 applies from the taxation year 1992. However, where paragraph *d.1* of section 776.45 of the said Act, enacted by subsection 1, applies before 30 October 1996, the French text thereof shall be read with the words “fiducie de fonds commun de placements” replaced by “fiducie de fonds mutuels”.

175. (1) Section 776.50 of the said Act is amended

(1) by striking out paragraph *a*;

(2) by inserting, after paragraph *a*, the following paragraphs:

“(a.1) “rental or leasing property” means a property that is a rental property or a leasing property for the purposes of Title VI of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1);

“(a.2) “limited partner” has the meaning that would be assigned by section 613.6 if that section were read without reference to “if his partnership interest is not an exempt interest at that time, within the meaning assigned by section 613.7, and”;”.

(2) Subsection 1 applies to taxation years of an individual that begin after 31 December 1994.

176. (1) Sections 776.53 and 776.54 of the said Act are replaced by the following:

“776.53. For the purposes of section 776.51, the aggregate of all amounts each of which is an amount deductible under paragraph *a* of section 130 or any of sections 147, 160, 163, 176, 176.4, 176.6 and 179 in computing the individual’s income for the year in respect of a rental or leasing property, other than an amount included in the individual’s share of a loss referred to in section 776.55.1, shall be established as if it were equal to the lesser of

- (a) the aggregate of all amounts otherwise so deductible; and
- (b) the amount by which the amount determined under the second paragraph is exceeded by the aggregate of
  - i. the aggregate of all amounts each of which is the individual’s income for the year from the renting or leasing of a rental or leasing property owned by the individual or by a partnership, computed without reference to paragraph *a* of section 130 and sections 147, 160, 163, 176, 176.4, 176.6 and 179, and
  - ii. the amount by which the aggregate of all amounts each of which is the individual’s taxable capital gain for the year from the disposition of a rental or leasing property owned by the individual or by a partnership exceeds the aggregate of all amounts each of which is the individual’s allowable capital loss for the year from the disposition of such a property.

The amount to which subparagraph *b* of the first paragraph refers is equal to the aggregate of all amounts each of which is the individual’s loss for the year from the renting or leasing of a rental or leasing property owned by the individual or by a partnership, other than an amount included in the individual’s share of a loss referred to in section 776.55.1, computed without reference to paragraph *a* of section 130 and sections 147, 160, 163, 176, 176.4, 176.6 and 179.

“776.54. For the purposes of section 776.51, the aggregate of all amounts each of which is an amount deductible under paragraph *a* of section 130 or any of sections 147, 160, 163, 176, 176.4, 176.6, 179, 726.4.1, 726.4.3 and 726.4.4 in computing the individual’s income or taxable income, as the case may be, for the year in respect of a film property that is a property referred to in subparagraph *r* of the first paragraph of Class 12 of Schedule B to the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1) or paragraph *q* or *r* of subsection 2 of Class 10 of that schedule, other than an amount included in the individual’s share of a loss referred to in section 776.55.1, shall be established as if it were equal to the lesser of

- (a) the aggregate of all amounts otherwise so deductible; and
- (b) the amount by which the amount determined under the second paragraph is exceeded by the aggregate of
  - i. the aggregate of all amounts each of which is the individual’s income for the year from the renting or leasing of a film property owned by the individual

or by a partnership, computed without reference to paragraph *a* of section 130 and sections 147, 160, 163, 176, 176.4, 176.6 and 179, and

ii. the amount by which the aggregate of all amounts each of which is the individual's taxable capital gain for the year from the disposition of such a film property owned by the individual or by a partnership exceeds the aggregate of all amounts each of which is the individual's allowable capital loss for the year from the disposition of such a film property.

The amount to which subparagraph *b* of the first paragraph refers is equal to the aggregate of all amounts each of which is the individual's loss for the year from such a film property owned by the individual or by a partnership, other than amounts included in the individual's share of a loss referred to in section 776.55.1, computed without reference to paragraph *a* of section 130 and sections 147, 160, 163, 176, 176.4, 176.6 and 179."

(2) Subsection 1 applies to taxation years of an individual that begin after 31 December 1994.

177. (1) Section 776.55 of the said Act is amended

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

"(b) the amount by which the amount determined under the second paragraph is exceeded by the aggregate of

i. the aggregate of all amounts each of which is the individual's income for the year from the renting or leasing of a film property owned by the individual or by a partnership, computed without reference to paragraph *a* of section 130 and sections 147, 160, 163, 176, 176.4, 176.6 and 179, and

ii. the amount by which the aggregate of all amounts each of which is the individual's taxable capital gain for the year from the disposition of a film property owned by the individual or by a partnership exceeds the aggregate of all amounts each of which is the individual's allowable capital loss for the year from the disposition of such a film property.";

(2) by adding the following paragraph:

"The amount to which subparagraph *b* of the first paragraph refers is equal to the aggregate of

(a) the lesser of the amounts determined under subparagraphs *a* and *b* of the first paragraph of section 776.54 in respect of the individual for the year; and

(b) all amounts each of which is the individual's loss for the year from a film property owned by the individual or by a partnership, other than amounts included in the individual's share of a loss referred to in section 776.55.1,

computed without reference to paragraph *a* of section 130 and sections 147, 160, 163, 176, 176.4, 176.6 and 179.”

(2) Subsection 1 applies to taxation years of an individual that begin after 31 December 1994.

178. (1) The said Act is amended by inserting, after section 776.55, the following sections :

“776.55.1. For the purposes of section 776.51, where, during a partnership’s fiscal period that ends in the year, other than a fiscal period that ends because of the application of the first paragraph of section 601, the individual is a limited partner of the partnership or a specified member of the partnership at all times since becoming a member of the partnership, or the individual’s interest in the partnership is an interest for which an identification number is required to be, or has been, obtained under Book X.1, the following rules apply :

(a) the individual’s share of allowable capital losses of the partnership for the fiscal period shall be established as if it were equal to the lesser of

i. the aggregate of all amounts each of which is

(1) the individual’s share of a taxable capital gain for the fiscal period from the disposition of property, other than property acquired by the partnership in a transaction to which the second paragraph of section 614 applies, or

(2) the individual’s taxable capital gain for the year from the disposition of the individual’s interest in the partnership if the individual, or a person with whom the individual does not deal at arm’s length, does not, or would not, but for paragraph *a* of section 618 and section 640, have an interest in the partnership throughout the following taxation year, and

ii. the individual’s share of allowable capital losses of the partnership for the fiscal period ;

(b) the individual’s share of each loss from a business of the partnership for the fiscal period shall be established as if it were equal to the lesser of

i. the individual’s share of the loss, and

ii. the amount by which the aggregate of all amounts each of which is the individual’s share of an allowable capital loss for the fiscal period is exceeded by the aggregate of all amounts each of which is

(1) the individual’s share of a taxable capital gain for the fiscal period from the disposition of property used by the partnership in the business, other than property acquired by the partnership in a transaction to which the second paragraph of section 614 applies, or



(2) the individual's taxable capital gain for the year from the disposition of the individual's interest in the partnership if the individual, or a person with whom the individual does not deal at arm's length, does not, or would not, but for paragraph *a* of section 618 and section 640, have an interest in the partnership throughout the following taxation year; and

(c) the individual's share of losses from property of the partnership for the fiscal period shall be established as if it were equal to the lesser of

i. the aggregate of the individual's share of incomes for the fiscal period from properties of the partnership and the amount by which the aggregate of all amounts each of which is the individual's share of an allowable capital loss for the fiscal period is exceeded by the aggregate of all amounts each of which is

(1) the individual's share of a taxable capital gain for the fiscal period from the disposition of property held by the partnership for the purpose of earning income from property, other than property acquired by the partnership in a transaction to which the second paragraph of section 614 applies, or

(2) the individual's taxable capital gain for the year from the disposition of the individual's interest in the partnership if the individual, or a person with whom the individual does not deal at arm's length, does not, or would not, but for paragraph *a* of section 618 and section 640, have an interest in the partnership throughout the following taxation year, and

ii. the individual's share of losses from property of the partnership for the fiscal period.

“776.55.2. For the purposes of section 776.51, where, during a partnership's fiscal period that ends in the year, other than a fiscal period that ends because of the application of the first paragraph of section 601, the individual is a limited partner of the partnership or a specified member of the partnership at all times since becoming a member of the partnership, or the partnership owns a rental or leasing property or a film property and the individual is a member of the partnership, the aggregate of all amounts each of which is an amount deductible under any of sections 147, 160, 163, 176, 176.4, 176.6 and 179 in computing the individual's income for the year in respect of the individual's acquisition of the partnership interest shall be established as if it were equal to the lesser of

(a) the aggregate of all amounts otherwise so deductible; and

(b) the aggregate of all amounts each of which is the individual's share of any income of the partnership for the fiscal period, determined in accordance with section 600.

“776.55.3. For the purposes of section 776.51, the aggregate of all amounts each of which is an amount deductible in computing the individual's

income for the year in respect of a property for which an identification number is required to be, or has been, obtained under Book X.1, other than an amount to which any of sections 776.53 to 776.55.2 applies, shall be established as if it were nil.”

(2) Subsection 1 applies to taxation years of an individual that begin after 31 December 1994.

179. (1) The said Act is amended by inserting, after section 776.57, the following section:

“776.57.1. For the purposes of section 776.51, the aggregate of all amounts each of which is an amount deductible under any of sections 147, 160, 163, 176, 176.4, 176.6 and 179 in computing the individual’s income for the year in respect of one of the properties described in the third paragraph, shall be established as if it were equal to the lesser of

(a) the aggregate of all amounts otherwise so deductible; and

(b) the amount by which the amount determined under the second paragraph is exceeded by the aggregate of all amounts each of which is an amount described in subparagraph i or ii of paragraph b of section 776.57, determined without reference to sections 147, 160, 163, 176, 176.4, 176.6 and 179.

The amount to which the first paragraph refers is equal to the aggregate of all amounts each of which is an amount deductible under any of sections 359 to 418.12, 419.1 to 419.4, 419.6, 600.1, 600.2, 726.4.9, 726.4.17.1 and 726.4.17.10 or section 88.4 of the Act respecting the application of the Taxation Act (chapter I-4), to the extent that that section refers to subsections 10 and 12 of section 29 of the Income Tax Application Rules (Revised Statutes of Canada, 1985, chapter 2, 5th Supplement) in computing the individual’s income or taxable income, as the case may be, for the year.

The properties to which the first paragraph refers are

(a) a flow-through share, if the individual is a person to whom the share was issued in accordance with an agreement referred to in the first paragraph of section 359.1;

(b) a Canadian resource property; and

(c) a foreign resource property.”

(2) Subsection 1 applies to taxation years of an individual that begin after 31 December 1994. However, where the second paragraph of section 776.57.1 of the said Act, enacted by subsection 1, applies before 12 June 1998, it shall be read with “section 88.4 of the Act respecting the application of the Taxation Act (chapter I-4)” replaced by “section 86 of the Act respecting the application of the Taxation Act (1972, chapter 24)”.

180. (1) The said Act is amended by inserting, after section 776.60, the following section :

“776.60.1. For the purposes of section 776.51, paragraph *a* of section 726.9.4 shall be read as if the reference therein to “3/4 of the amount” were a reference to “the amount”.”

(2) Subsection 1 applies to the taxation years 1994 and 1995.

181. (1) Section 776.61 of the said Act is amended

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

“ii. the aggregate of all amounts that would be deductible under the said sections for the year if

(1) sections 776.53, 776.54, 776.55 and 776.57, as they apply to taxation years that begin after 31 December 1985 and end before 1 January 1995, were applicable in computing the individual’s non-capital loss, farm loss, restricted farm loss and limited partnership loss for any of those taxation years, and

(2) sections 776.53 to 776.55.3, 776.57 and 776.57.1 were applicable in computing the individual’s non-capital loss, farm loss, restricted farm loss and limited partnership loss for any taxation year that begins after 31 December 1994 ; and” ;

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

“ii. the aggregate of all amounts that would be deductible under section 729 for the year if

(1) section 776.56 applied in computing the individual’s net capital loss for any taxation year that begins before 1 January 1995, and

(2) sections 776.55.1 and 776.56 applied in computing the individual’s net capital loss for any taxation year that begins after 31 December 1994.”

(2) Subsection 1 applies to taxation years that begin after 31 December 1985. However, for the purpose of determining the adjusted taxable income of an individual for a taxation year that begins before 1 January 1995, subparagraph 1 of subparagraph ii of paragraph *b* of section 776.61 of the said Act, enacted by paragraph 2 of subsection 1, shall be read as follows :

“(1) section 776.56 applied in computing the individual’s net capital loss for a taxation year that begins after 31 December 1985 but before 1 January 1995, and”.

182. (1) Section 776.64 of the said Act is replaced by the following :

“776.64. For the purposes of this chapter, any amount deductible under a provision of this Part in computing the income or loss of a partnership for a fiscal period is, to the extent of a member’s share of the partnership’s income or loss, deemed to be deductible by the member under that provision in computing the member’s income for the taxation year in which the fiscal period ends.”

(2) Subsection 1 applies to taxation years of an individual that begin after 31 December 1994.

183. (1) The said Act is amended by inserting, after section 776.64, the following section:

“776.64.1. Where it can reasonably be considered that one of the main reasons that a member of a partnership was not a specified member of the partnership at all times since becoming a member of the partnership is to avoid the application of this Title in respect of the member’s interest in the partnership, the member is deemed for the purposes of this Title to have been a specified member of the partnership at all times since becoming a member of the partnership.”

(2) Subsection 1 has effect from 27 April 1995.

184. (1) Section 776.70 of the said Act is amended by striking out the words “an overpayment of”.

(2) Subsection 1 applies from the taxation year 1998.

185. (1) Section 779 of the said Act, amended by section 119 of chapter 83 of the statutes of 1999, is replaced by the following:

“779. Except for the purposes of sections 752.0.2, 752.0.7.1 to 752.0.10 and 752.0.11 to 752.0.13.0.1, Title VII of Book V, section 935.4 and Divisions II.13 to II.18 of Chapter III.1 of Title III of Book IX, the taxation year of a bankrupt is deemed to begin on the date of the bankruptcy and the current taxation year is deemed to end on the day immediately before the date of the bankruptcy.”

(2) Subsection 1 applies from the taxation year 1997. However, where section 779 of the said Act, enacted by subsection 1, applies to the taxation year 1997, it shall be read without reference to “, 752.0.7.1 to 752.0.10” and with “Divisions II.13 to II.18” replaced by “Divisions II.13 to II.16 and II.18”.

186. (1) Section 851.22.27 of the said Act is amended by replacing, in the second paragraph, “550.2” by “550”.

(2) Subsection 1 applies from the taxation year 1995.

187. Section 851.34 of the said Act, amended by section 122 of chapter 83 of the statutes of 1999, is again amended by replacing, in the English text of the portion before paragraph *a*, the words “registered Canadian amateur athletic association” by the words “prescribed Canadian amateur athletic association”.

188. (1) Section 852 of the said Act is amended by replacing the portion before paragraph *a* by the following :

“852. In this Title,

“unused portion of the exempt capital gains balance” of a beneficiary in respect of a trust governed by a profit sharing plan, at any time in a taxation year of the beneficiary, means

(*a*) if the year ends before 1 January 2005, the amount by which the beneficiary’s exempt capital gains balance, within the meaning of section 251.1, in respect of the trust for the year exceeds the aggregate of all amounts each of which is an amount by which a capital gain is reduced under Chapter II.1 of Title IV of Book III for the year because of the beneficiary’s exempt capital gains balance in respect of the trust ; or

(*b*) if the year ends after 31 December 2004, the amount by which the amount that would, if the definition of “exempt capital gains balance” in the first paragraph of section 251.1 were read without reference to “that ends before 1 January 2005”, be the beneficiary’s exempt capital gains balance in respect of the trust for the year, exceeds

i. where there has been a disposition of an interest or a part of an interest of the beneficiary in the trust after the beneficiary’s taxation year 2004, other than a disposition that is a part of a transaction described in paragraph *c* of section 858 in which property is received as consideration for all or a portion of the beneficiary’s interests in the trust, the aggregate of all amounts each of which is an amount by which the adjusted cost base of an interest or a part of an interest disposed of by the beneficiary, other than an interest or a part of an interest that is all or a portion of the beneficiary’s interests referred to in paragraph *c* of section 858, was increased because of paragraph *c.4* of section 255, and

ii. in any other case, nil ;

“profit sharing plan” at a particular time means an arrangement”.

(2) Subsection 1 applies from the taxation year 1994.

189. (1) Section 858 of the said Act is amended

(1) by striking out, at the end of paragraph *a*, the word “and” ;

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

“(b) that proportion of such portion of the amount received by the beneficiary, as determined in section 857, as is attributable to an amount referred to in any of subparagraphs *a* to *g* of the first paragraph of that section, that the cost amount to the trust of the property immediately before the particular time is of the cost amount to the trust of all properties so received by the beneficiary at the particular time, is, subject to paragraph *c*, deemed to be both the cost to the beneficiary of the property and, for the purposes of section 857, the amount so received by the beneficiary by virtue of the receipt by the beneficiary of the property ; and” ;

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

“(c) where the property is received as consideration for all or a portion of the beneficiary’s interests in the trust and the beneficiary files with the Minister on or before the beneficiary’s filing-due date for the beneficiary’s taxation year that includes the particular time an election in respect of the property, the beneficiary shall include in the cost to the beneficiary of the property determined under paragraph *b* the least of

i. the amount by which the unused portion of the beneficiary’s exempt capital gains balance in respect of the trust at the particular time exceeds the aggregate of all amounts each of which is an amount included because of this paragraph in the cost to the beneficiary of another property received by the beneficiary at or before the particular time in the year,

ii. the amount by which the fair market value of the property at the particular time exceeds the amount deemed by paragraph *b* to be the cost to the beneficiary of the property, and

iii. the amount designated in the election in respect of the property.”

(2) Subsection 1 applies from the taxation year 1994. However, an election provided for in paragraph *c* of section 858 of the said Act, enacted by subsection 1, made by the beneficiary under a trust by notifying the Minister of Revenue in writing on or before the beneficiary’s filing-due date for the beneficiary’s taxation year that includes 11 May 2000, is deemed to have been made in accordance with that paragraph *c*.

190. (1) Section 890.13 of the said Act is amended by replacing paragraphs *a* and *b* by the following :

“(a) where an amount in respect of a particular retirement compensation arrangement is required by paragraph *a* or *c* of section 890.9 or by section 429 to be included in computing the taxpayer’s income for the year, an amount equal to the lesser of

i. the aggregate of all amounts in respect of the particular arrangement so required to be included in computing the taxpayer’s income for the year, and

ii. the amount by which the aggregate of all amounts each of which is an amount deducted under this paragraph or paragraph *b* in respect of the particular arrangement in computing the taxpayer's income for a preceding taxation year or an amount transferred in respect of the taxpayer before the end of the year from the particular arrangement to another retirement compensation arrangement in circumstances in which section 890.14 applies, to the extent that the amount would have been deductible under this paragraph in respect of the particular arrangement in computing the taxpayer's income if it had been received by the taxpayer out of the particular arrangement, is exceeded by the aggregate of all amounts each of which is

(1) an amount, other than an amount deductible under section 70.2 or transferred to the particular arrangement in circumstances in which section 890.14 applies, contributed under the particular arrangement by the taxpayer while it was a retirement compensation arrangement and before the end of the year,

(2) an amount transferred in respect of the taxpayer before the end of the year to the particular arrangement from another retirement compensation arrangement in circumstances in which section 890.14 applies, to the extent that the amount would have been deductible under this paragraph in respect of the other arrangement in computing the taxpayer's income if it had been received by the taxpayer out of the other arrangement,

(3) an amount paid by the taxpayer before the end of the year and at a time when the taxpayer was resident in Canada to acquire an interest in the particular arrangement, or

(4) an amount that was received or became receivable by the taxpayer before the end of the year and at a time when the taxpayer was resident in Canada as proceeds from the disposition of an interest in the particular arrangement; and

“(b) where an amount in respect of a particular retirement compensation arrangement is required by paragraph *b* of section 890.9 to be included in computing the taxpayer's income for the year, an amount equal to the lesser of

i. the aggregate of all amounts in respect of the particular arrangement so required to be included in the taxpayer's income for the year, and

ii. the amount by which the aggregate of all amounts each of which is an amount deducted under paragraph *a* in respect of the particular arrangement in computing the taxpayer's income for the year or a preceding taxation year, an amount deducted under this paragraph in respect of the particular arrangement in computing the taxpayer's income for a preceding taxation year or an amount transferred in respect of the taxpayer before the end of the year from the particular arrangement to another retirement compensation arrangement in circumstances in which section 890.14 applies, to the extent that the amount would have been deductible under paragraph *a* in respect of the particular

arrangement in computing the taxpayer's income if it had been received by the taxpayer out of the other arrangement, is exceeded by the aggregate of all amounts each of which is

(1) an amount, other than an amount deductible under section 70.2 or transferred to the particular arrangement in circumstances in which section 890.14 applies, contributed under the particular arrangement by the taxpayer while it was a retirement compensation arrangement and before the end of the year,

(2) an amount transferred in respect of the taxpayer before the end of the year to the particular arrangement from another retirement compensation arrangement in circumstances in which section 890.14 applies, to the extent that the amount would have been deductible under paragraph *a* in respect of the other arrangement in computing the taxpayer's income if it had been received by the taxpayer out of the other arrangement, and

(3) an amount paid by the taxpayer before the end of the year and at a time when the taxpayer was resident in Canada to acquire an interest in the particular arrangement.”

(2) Subsection 1 applies from the taxation year 1996.

191. (1) The said Act is amended by inserting, after section 890.13, the following:

#### **“CHAPTER V**

#### **“ARRANGEMENT TRANSFERS**

“890.14. Where an amount, other than an amount that is part of a series of periodic payments, is transferred directly to a retirement compensation arrangement, other than a plan or arrangement the custodian of which is not resident in Canada or which is deemed under section 890.6 to be a retirement compensation arrangement, from another retirement compensation arrangement, the following rules apply:

(*a*) the amount shall not, solely because of the transfer, be included in computing a taxpayer's income; and

(*b*) no deduction may be made in respect of the amount in computing a taxpayer's income.”

(2) Subsection 1 applies in respect of amounts transferred after 31 December 1995.

192. (1) The heading of Chapter I of Title III of Book VII of Part I of the said Act is replaced by the following:



“INTERPRETATION AND REGISTRATION”.

(2) Subsection 1 has effect from 1 January 1998.

193. (1) The said Act is amended by inserting, after the heading of Chapter I of Title III of Book VII of Part I, the following sections :

“890.15. In this Title,

“accumulated income payment” under an education savings plan means any amount paid out of the plan, other than an amount referred to in any of paragraphs *a*, *c*, *d* and *e* of the definition of “trust”, to the extent that the amount exceeds the fair market value of any consideration given to the plan for the payment of the amount ;

“beneficiary” under an education savings plan means a person, designated by a subscriber under the plan, to whom or on whose behalf an educational assistance payment under the plan is to be paid if the person qualifies under the plan ;

“education savings plan” means

(*a*) a contract described in section 893 ; or

(*b*) a contract entered into after 31 December 1997 between either one individual, other than a trust, or an individual, other than a trust, and the spouse of the individual, and a person or organization, in this Title referred to as a “promoter”, under which the promoter agrees to pay or to cause to be paid educational assistance payments to or for one or more beneficiaries ;

“educational assistance payment” means any amount, other than a refund of contributions, paid out of an education savings plan to or for an individual to assist the individual to further the individual’s education at the post-secondary school level ;

“refund of contributions” at any time under a registered education savings plan means

(*a*) an amount paid at that time as a refund of a contribution that had been made to the plan at a previous time by or on behalf of a subscriber under the plan, otherwise than by way of a transfer from another registered education savings plan ; and

(*b*) an amount paid at that time as a refund of an amount that had been paid into the plan at a previous time by way of a transfer from another registered education savings plan, where the amount would have been a refund of contributions under the other plan if it had been paid at the previous time directly to a subscriber under the other plan ;

“registered education savings plan” means, subject to section 890.16, an education savings plan registered or deemed to be registered by the Minister for the purposes of this Part or a registered education savings plan as it is amended from time to time; in that respect, every education savings plan whose registration was effective on 1 January 1998, or that is accepted for registration after 31 December 1997, for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) is, subject to the Minister’s power to refuse or revoke a registration, deemed to be registered by the Minister for the purposes of this Part;

“subscriber” under an education savings plan at any time means

(a) in the case of an education savings plan under a contract described in section 893, the individual referred to in that section with whom the promoter of the plan has entered into the contract; or

(b) in the case of another education savings plan and subject to section 890.17,

i. each individual with whom the promoter of the plan has entered into the plan,

ii. an individual who has before that time acquired a subscriber’s rights under the plan pursuant to a decree, order or judgment of a competent tribunal, or under a written agreement, relating to a partition of property between the individual and a subscriber under the plan in settlement of rights arising out of, or on the breakdown of, their marriage, or

iii. after the death of a subscriber under the plan, any other person, including the succession of the subscriber, who makes contributions to the plan in respect of a beneficiary under the plan;

“trust”, except in paragraphs *d* and *e* and paragraph *b* of the definition of “education savings plan”, means any person who irrevocably holds property under an education savings plan for any of, or any combination of, the following purposes:

(a) the payment of educational assistance payments;

(b) the payment after 31 December 1997 of accumulated income payments;

(c) the payment of a refund of contributions;

(d) the payment of an amount to, or to a trust in favour of, a prescribed educational institution; and

(e) the payment of an amount to another trust that irrevocably holds property under a registered education savings plan for one or more of the purposes set out in paragraphs *a* to *d*.

“890.16. For the purposes of this Title, except sections 904 and 904.1, a registered education savings plan ceases to qualify as such from the day following the day on which its registration is revoked or deemed revoked under section 899.

“890.17. For the purposes of paragraph *b* of the definition of “subscriber” in section 890.15, a subscriber under an education savings plan at any time does not include an individual who, before that time, disposed of the individual’s rights as a subscriber under the plan in the circumstances described in subparagraph ii of that paragraph *b*.”

(2) Subsection 1 has effect from 1 January 1998 except where it enacts the definition of “refund of contributions” in section 890.15 of the said Act, in which case it applies from the taxation year 1998.

194. (1) Sections 891 and 892 of the said Act are repealed.

(2) Subsection 1 has effect from 1 January 1998.

195. (1) Section 893 of the said Act is replaced by the following :

“893. The contract to which paragraph *a* of the definition of “education savings plan” in section 890.15 refers is a contract entered into before 1 January 1998 between an individual and a promoter, under which, as consideration for the payment of an amount by the individual, the promoter agrees to pay or to cause to be paid educational assistance payments to or for a beneficiary.”

(2) Subsection 1 has effect from 1 January 1998.

196. (1) Section 894 of the said Act is repealed.

(2) Subsection 1 has effect from 1 January 1998. In addition, where paragraph *c* of section 894 of the said Act, repealed by subsection 1, applies to the taxation year 1997, it shall be read as follows :

“(c) a refund at any time of

i. a contribution that had been made to the plan at a previous time by or on behalf of a subscriber under the plan, otherwise than by way of a transfer from another plan that is a registered education savings plan, or

ii. an amount that had been paid into the plan at a previous time by way of a transfer from another plan that was a registered education savings plan, where the amount would have been a refund referred to in this paragraph under the other plan if it had been paid at the previous time directly to a subscriber under the other plan;”.

197. (1) Section 895 of the said Act is amended

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

“895. The Minister shall not register for the purposes of this Part any education savings plan of a promoter unless the promoter applies therefor to the Minister in prescribed form containing prescribed information and, in the Minister’s opinion, the following conditions are complied with :

(*a*) at the time of the application for registration of the plan by the promoter, not fewer than 150 plans have been entered into with the promoter, each of which complied, at the time it was entered into, with the conditions set out in section 894 and the other conditions set out in this section, as those sections read at that time ;” ;

(2) by inserting, after paragraph *a*, the following paragraph :

“(a.1) the plan provides that the property of any trust governed by the plan, after the payment of trustee and administration charges, is irrevocably held for any of the purposes described in the definition of “trust” in section 890.15 by a corporation licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering its services as a trustee ;” ;

(3) by replacing paragraph *c* by the following :

“(c) the plan does not allow for any payment before 1 January 1998 to a subscriber, other than the payment of a refund of contributions, unless the subscriber is also the beneficiary under the plan ;” ;

(4) by inserting, after paragraph *c*, the following paragraph :

“(c.1) the plan does not allow accumulated income payments under the plan, or the plan allows an accumulated income payment at a particular time under the plan only if

i. the accumulated income payment is made to, or on behalf of, a person and not jointly to, or on behalf of, more than one person,

ii. the particular time is after 31 December 1997,

iii. the person to, or on behalf of whom, the accumulated income payment is made is resident in Canada at the particular time,

iv. either the person referred to in subparagraph iii is a subscriber under the plan at the particular time, or an individual died prior to the particular time and was a subscriber under the plan immediately before death,

v. each individual in respect of whom a subscriber has made a contribution to the plan has before the particular time attained 21 years of age and is not, at

that time, eligible under the plan to receive an educational assistance payment, or has died before the particular time, and

vi. either the particular time is after the ninth year that follows the year in which the plan was entered into, or each individual in respect of whom a subscriber has made a contribution to the plan has died before the particular time and was, or was related to, a subscriber under the plan or was the nephew, niece, great nephew or great niece of a subscriber under the plan ;” ;

(5) by replacing paragraphs *e* and *f* by the following :

“(e) in the event that a trust governed by the plan is terminated, the property held by the trust is to be used for any of the purposes described in the definition of “trust” in section 890.15 ;

“(f) the plan provides for the payment of educational assistance payments before 1 January 1997 to an individual only if the individual is, at the time the payment is made, in full-time attendance at a prescribed post-secondary educational institution, enrolled in a prescribed educational program at the institution and is not a prescribed tax-exempt person ;” ;

(6) by inserting, after paragraph *f*, the following paragraphs :

“(f.1) the plan provides for the payment of educational assistance payments after 31 December 1996 to an individual only if the individual is, at the time the payment is made, enrolled in a prescribed educational program as a full-time student at a prescribed post-secondary educational institution and is not a prescribed tax-exempt person ;

“(f.2) the plan provides that no contribution to the plan may be made otherwise than by or on behalf of a subscriber under the plan in respect of a beneficiary under the plan or by way of transfer from another plan that is a registered education savings plan ;” ;

(7) by replacing the French text of paragraphs *g* and *h* by the following :

“(g) le régime prévoit qu’aucun paiement ne peut y être fait par un souscripteur ou pour son compte après la vingt et unième année suivant celle au cours de laquelle le contrat qui constitue le régime a été conclu ;

“(h) le régime prévoit qu’il doit cesser d’exister au plus tard le dernier jour de la vingt-cinquième année suivant celle au cours de laquelle le contrat qui constitue le régime a été conclu ;” ;

(8) by inserting, after paragraph *h*, the following paragraphs :

“(h.1) where the plan allows accumulated income payments in accordance with paragraph *c.1*, the plan provides that it must be terminated before 1 March of the year following the year in which the first such payment is made under the plan ;

“(h.2) the plan does not allow for the receipt of property by way of direct transfer from another plan that is a registered education savings plan after the other plan has made any accumulated income payment;”;

(9) by replacing paragraphs *i* and *j* by the following :

“(i) where the plan allows more than one beneficiary under the plan at any one time, the plan provides

i. that each of the beneficiaries under the plan is required to be connected to each living subscriber under the plan, or to have been connected to a deceased original subscriber under the plan, by blood relationship or adoption, and

ii. that a contribution to the plan in respect of a beneficiary is permitted to be made only if

(1) the beneficiary had not attained 21 years of age at the time the plan was entered into,

(2) the contribution is made by way of transfer from another plan that is a registered education savings plan to which a contribution had been made before the transfer in respect of the beneficiary, or

(3) the contribution is made to the plan in respect of the beneficiary after a contribution in accordance with subparagraph 2 was made ;

“(j) the plan provides that the total of all contributions made by a subscriber to the plan in respect of a beneficiary for a year, other than contributions made by way of transfer from another plan that is a registered education savings plan, shall not exceed

i. for each of the years 1990 to 1995, \$1,500,

ii. for the year 1996, \$2,000, and

iii. for the year 1997 and each of the following years, \$4,000;”;

(10) by replacing paragraph *l* by the following :

“(l) the Minister has no reason to believe that the promoter will not take all reasonable measures to ensure that the plan will continue to comply with the conditions for registration set out in paragraphs *a.1*, *b* to *c.1* and *e* to *k* for the purposes of this Part.”

(2) Paragraphs 1 and 10 of subsection 1 apply in respect of applications made after 31 December 1997.

(3) Paragraph 2, paragraph 5, where it replaces paragraph *e* of section 895 of the said Act, and paragraph 7 of subsection 1 have effect from 1 January 1998.

(4) Paragraphs 3, 4 and 8 of subsection 1 and paragraph 9 of that subsection, where it replaces paragraph *i* of section 895 of the said Act, apply from the taxation year 1998. However,

(1) paragraph *i* of section 895 of the said Act, enacted by that paragraph 9, does not apply in respect of plans entered into before 14 July 1990; and

(2) subparagraph ii of paragraph *i* of section 895 of the said Act, enacted by that paragraph 9, does not apply in respect of plans entered into before 1 January 1998.

(5) Paragraph 5 of subsection 1, where it replaces paragraph *f* of section 895 of the said Act, paragraph 6 of that subsection, where it enacts paragraph *f.1* of that section 895, and paragraph 9 of that subsection, where it replaces paragraph *j* of that section 895, apply in respect of plans entered into after 20 February 1990. However, where paragraphs *f* and *f.1* of section 895 of the said Act, enacted by those paragraphs 5 and 6, apply

(1) before 1 January 1998 in respect of plans entered into before that date, they shall be read as follows:

“(f) the plan provides for payment of financial assistance referred to in section 893 before 1 January 1997 to a beneficiary referred to therein only if the beneficiary is, at the time the payment is made, in full-time attendance at a prescribed post-secondary educational institution, enrolled in a prescribed educational program at the institution and is not a prescribed tax-exempt person;

“(f.1) the plan provides for payment of financial assistance referred to in section 893 after 31 December 1996 to a beneficiary referred to therein only if the beneficiary is, at the time the payment is made, enrolled in a prescribed educational program as a full-time student at a prescribed post-secondary educational institution and is not a prescribed tax-exempt person;”;

(2) after 31 December 1997 in respect of plans entered into before 1 January 1998, they shall be read with the words “an individual” and “the individual” replaced by the words “a beneficiary” and “the beneficiary”.

(6) Paragraph 6 of subsection 1, where it enacts paragraph *f.2* of section 895 of the said Act, applies from the taxation year 1997.

198. (1) Sections 895.1 and 896 of the said Act are replaced by the following:

“895.1. Where property irrevocably held by a trust governed by a registered education savings plan, in this section referred to as the “transferor plan”, is transferred to a trust governed by another registered education savings plan, in this section referred to as the “transferee plan”, the following rules apply :

(a) for the purposes of this section, subparagraph vi of paragraph c.1 of section 895 and paragraphs g and h of that section 895, the transferee plan is deemed to have been entered into on the earlier of the day on which the transferee plan was entered into and the day on which the transferor plan was entered into; and

(b) notwithstanding sections 904 and 904.1, no amount shall be included in computing the income of any person because of the transfer.

“896. Where an education savings plan cannot be registered solely because the condition set out in paragraph a of section 895 has not been complied with, if the plan is subsequently registered, it is deemed to have been registered on 1 January of the year in which all other conditions referred to in that section were complied with or on 1 January of the year preceding the year in which the plan is subsequently registered, whichever date is the later.”

(2) Subsection 1 has effect from 1 January 1998. However, where section 895.1 of the said Act, enacted by subsection 1, applies in respect of transfers made before that date, it shall be read without reference to its paragraph b.

199. (1) Section 897 of the said Act is amended by replacing the words “approve for registration” by the word “register” and “requirements contemplated in the said section 895 and in section 894” by “conditions set out in that section 895”.

(2) Subsection 1 has effect from 1 January 1998.

200. (1) The said Act is amended by inserting, after the heading of Chapter II of Title III of Book VII of Part I, the following sections :

“898.1. Where on a particular day a registered education savings plan ceases to comply with any provision of the plan or with the conditions set out in section 895 for the plan’s registration, the Minister may send written notice to the promoter of the plan that the Minister proposes to revoke the registration of the plan as of the day specified in the notice, which day shall not be earlier than the particular day.

“898.2. Where, in accordance with section 898.1, the Minister sends a notice, in this section referred to as a “notice of intent”, to the promoter of a registered education savings plan that the Minister proposes to revoke the registration of the plan, the Minister may, after 30 days after the receipt by the promoter of the notice of intent, send written notice to the promoter that the



registration of the plan is revoked as of the day specified in the notice of revocation, which day shall not be earlier than the day specified in the notice of intent.”

(2) Subsection 1 has effect from 1 January 1998.

201. (1) Section 899 of the said Act, amended by section 273 of chapter 83 of the statutes of 1999, is replaced by the following :

“899. Where, in accordance with section 898.2, the Minister sends a notice of revocation of the registration of a registered education savings plan to the promoter of the plan, the registration of the plan is revoked as of the day specified in the notice of revocation, unless the Court of Québec or a judge thereof, on application made at any time before the determination of an appeal under subparagraph *e* of the first paragraph of section 93.1.15 of the Act respecting the Ministère du Revenu (chapter M-31), decides otherwise.

Subject to the first paragraph, the registration of a registered education savings plan that is deemed to have been registered by the Minister for the purposes of this Part, in accordance with the definition of “registered education savings plan” in section 890.15, is deemed, for the purposes of this Part, to be revoked as of the day on which, for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), the registration of the plan is revoked under subsection 13 of section 146.1 of that Act.”

(2) Subsection 1 has effect from 1 January 1998.

202. (1) Section 900 of the said Act is repealed.

(2) Subsection 1 has effect from 1 January 1998.

203. (1) The heading of Chapter IV of Title III of Book VII of Part I of the said Act is replaced by the following :

“INCOME INCLUSIONS”.

(2) Subsection 1 applies from the taxation year 1998.

204. (1) Section 903 of the said Act is repealed.

(2) Subsection 1 has effect from 1 January 1998.

205. (1) Section 904 of the said Act is replaced by the following :

“904. An individual shall include in computing the individual’s income for a taxation year any education assistance payment paid out of a registered education savings plan to or for the individual in the year.”

(2) Subsection 1 applies from the taxation year 1998.

206. (1) The said Act is amended by inserting, after section 904, the following section:

“904.1. A taxpayer shall include in computing the taxpayer’s income for a taxation year the aggregate of

(a) any accumulated income payment received in the year by the taxpayer under a registered education savings plan; and

(b) any amount received in the year by the taxpayer in full or partial satisfaction of a subscriber’s interest under a registered education savings plan, other than any excluded amount in relation to the plan.

For the purposes of subparagraph *b* of the first paragraph, an excluded amount in relation to a registered education savings plan is

(a) any amount received under the plan;

(b) any amount received in satisfaction of a right to a refund of contributions under the plan; or

(c) any amount received by a taxpayer under a decree, order or judgment of a competent tribunal, or under a written agreement, relating to a partition of property between the taxpayer and the taxpayer’s spouse or former spouse in settlement of rights arising out of, or on the breakdown of, their marriage.”

(2) Subsection 1 applies from the taxation year 1998.

207. (1) Section 905 of the said Act is repealed.

(2) Subsection 1 applies from the taxation year 1998.

208. (1) The said Act is amended by inserting, after section 905, the following:

#### “CHAPTER V

#### “ADMINISTRATION

“905.0.1. Where a registered education savings plan is amended, the promoter of the plan shall file the text of the amendment with the Minister not later than 60 days after the day on which the plan is amended.

“905.0.2. The Government may make regulations requiring promoters of education savings plans to file information returns in relation to the plans.”

(2) Subsection 1 has effect from 18 June 1998.

209. (1) Section 905.1 of the said Act is amended

(1) by adding, after subparagraph iii of paragraph *a*, the following subparagraph:

“iv. a tax-paid amount described in subparagraph ii of paragraph *c.1* that relates to interest or to another amount included in computing income otherwise than because of any of the provisions of this Title;”;

(2) by inserting, after paragraph *c*, the following paragraph:

“(c.1) “tax-paid amount”, in respect of a registered retirement savings plan, means

i. an amount paid to a person in respect of the amount that would, if this Part were read without reference to paragraph *a* of section 657 and section 657.1, be income of a trust governed by the plan for a taxation year for which the trust is subject to tax under this Part because of section 921.1, or

ii. where the plan is a deposit with a depositary referred to in clause B of subparagraph iii of paragraph *b* of the definition of “retirement savings plan” in subsection 1 of section 146 of the Income Tax Act, and an amount is received at any time out of or under the plan by a person, the portion of the amount that may reasonably be considered to relate to interest or another amount in respect of the deposit that is required to be included in computing the income of any person, other than the annuitant, otherwise than because of any of the provisions of this Title;”.

(2) Subsection 1 applies in respect of deaths that occur after 31 December 1992.

210. (1) Section 908 of the said Act is amended by replacing subparagraphs *a* and *b* of the first paragraph by the following:

“(a) any amount paid to a spouse of the annuitant out of or under a registered retirement savings plan of the annuitant, other than any part of the amount that is a tax-paid amount in respect of the plan, where the annuitant died before the date provided for the first payment of benefits and the amount was paid as a consequence of the death; or

“(b) if the annuitant had no spouse at the time of the annuitant’s death, any amount paid out of or under a registered retirement savings plan of the annuitant, other than any part of the amount that is a tax-paid amount in respect of the plan, after the death to a child or grandchild of the annuitant, who was, at the time of the death, financially dependent on the annuitant for support.”

(2) Subsection 1 applies in respect of deaths that occur after 31 December 1992.

211. (1) Section 915.2 of the said Act is amended by replacing subparagraph *a* of the third paragraph by the following:

“(a) A is the aggregate of

i. all refunds of premiums in respect of the plan,

ii. all tax-paid amounts in respect of the plan paid to individuals who, otherwise than because of section 930, received refunds of premiums in respect of the plan, and

iii. all amounts each of which is a tax-paid amount in respect of the plan paid to the legal representative of the annuitant under the plan, to the extent that the legal representative would have been entitled to designate that tax-paid amount under section 930 if tax-paid amounts were not excluded in determining refunds of premiums;”.

(2) Subsection 1 applies in respect of deaths that occur after 31 December 1992.

212. Section 935.1 of the said Act is amended, in the English text of the first paragraph, by replacing the words “cooperative housing corporation” by the words “housing cooperative” in the following provisions :

— subparagraph ii of paragraph *d.1* of the definition of “eligible amount”;

— paragraph *b* of the definition of “qualifying home”.

213. Section 935.2 of the said Act is amended, in the first paragraph,

(1) by replacing, in the English text, subparagraph *a.1* by the following :

“(a.1) an individual is deemed to have an owner-occupied home at any time where, at that time, the individual owns, whether jointly with another person or otherwise, a housing unit or a share of the capital stock of a housing cooperative and the housing unit is inhabited by the individual as the individual’s principal place of residence at that time, or the share was acquired for the purpose of acquiring a right to possess a housing unit owned by the cooperative and that unit is inhabited by the individual as the individual’s principal place of residence at that time;”;

(2) by replacing, in the portion of subparagraph *e* before subparagraph *i*, the words “Minister of National Revenue” by the words “Minister of Revenue of Canada”.

214. Section 943 of the said Act is replaced, in the English text, by the following :

“943. For the purposes of this Title, an owner-occupied home of an individual is a housing unit in Canada that is owned in a taxation year or within 60 days after the end of the taxation year by the individual, whether alone or jointly with another person, and that was inhabited by the individual at any time in that year or within 60 days after the end of that year.

If a housing unit in Canada is owned by a housing cooperative, “owner-occupied home” also includes a share of the capital stock of the cooperative that is owned in the taxation year or within 60 days after the end of the taxation year by the individual, whether alone or jointly with another person, if the share was acquired by the individual for the sole purpose of acquiring the right to inhabit the housing unit and that housing unit was inhabited by the individual at any time in that year or within 60 days after the end of that year.”

215. (1) Section 961.1.5 of the said Act is amended by replacing paragraph *c* by the following :

“(c) “minimum amount” under a retirement income fund for a year means the amount determined under section 961.1.5.0.1 in respect of the fund for the year;”.

(2) Subsection 1 applies

(1) from the year 1998 in respect of

(a) retirement income funds entered into after 28 February 1986, and

(b) retirement income funds entered into before 1 March 1986 and revised or amended after 28 February 1986 and before 1 January 1998;

(2) from the year in which a retirement income fund is first revised or amended after 31 December 1997, if the fund was entered into before 1 March 1986 and was not revised or amended after 28 February 1986 and before 1 January 1998; and

(3) with respect to a retirement income fund that governs a trust that, after 31 July 1997, holds a contract for an annuity, to all years that begin after the first day that is after 31 July 1997, and on which the trust holds such a contract.

216. (1) The said Act is amended by inserting, after section 961.1.5, the following section :

“961.1.5.0.1. The amount to which paragraph *c* of section 961.1.5 refers in respect of a retirement income fund for a year is the amount determined by the formula

$(A \times B) + C$ .

In the formula provided for in the first paragraph,

(a) A is the fair market value of all properties held in connection with the fund at the beginning of the year, other than annuity contracts held by a trust governed by the fund that, at the beginning of the year, are not referred to in paragraph *b.1* of the definition of “qualified investment” in subsection 1 of

section 146.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

(b) B is

i. where the first annuitant under the fund elected in respect of the fund under subparagraph ii of paragraph *c* of section 961.1.5, as it read before 1 January 1992, or under the first paragraph of section 961.4, as it read before 1 January 1986, to use the age of another individual, the prescribed factor for the year in respect of the other individual,

ii. where subparagraph i does not apply and the first annuitant under the fund so elects before any payment has been made under the fund by the carrier, the prescribed factor for the year in respect of an individual who is the spouse of the first annuitant at the time of the election, and

iii. in any other case, the prescribed factor for the year in respect of the first annuitant under the fund; and

(c) C is, where the fund governs a trust, the aggregate of all amounts each of which is

i. a periodic payment under an annuity contract held by the trust at the beginning of the year, other than an annuity contract referred to at the beginning of the year in paragraph *b.1* of the definition of “qualified investment” in subsection 1 of section 146.3 of the Income Tax Act, that is paid to the trust in the year, or

ii. if the periodic payment under an annuity contract described in subparagraph i is not made to the trust because the trust disposed of the right to that payment in the year, a reasonable estimate of that payment on the assumption that the annuity contract has been held by the trust throughout the year and no rights under the contract were disposed of in the year.”

(2) Subsection 1 applies

(1) from the year 1998 in respect of

(a) retirement income funds entered into after 28 February 1986, and

(b) retirement income funds entered into before 1 March 1986 and revised or amended after 28 February 1986 and before 1 January 1998;

(2) from the year in which a retirement income fund is first revised or amended after 31 December 1997, if the fund was entered into before 1 March 1986 and was not revised or amended after 28 February 1986 and before 1 January 1998; and

(3) with respect to a retirement income fund that governs a trust that, after 31 July 1997, holds a contract for an annuity, to all years that begin after the

first day that is after 31 July 1997, and on which the trust holds such a contract.

217. (1) Section 961.17 of the said Act is amended by adding, after subparagraph *b* of the first paragraph, the following subparagraph:

“(c) an amount that relates to interest, or to another amount included in computing income otherwise than because of any of the provisions of this Title, and that would, if the fund were a registered retirement savings plan, be a tax-paid amount described in subparagraph ii of paragraph *c.1* of section 905.1.”

(2) Subsection 1 applies in respect of deaths that occur after 31 December 1992.

218. (1) Section 961.17.1 of the said Act is amended by replacing subparagraph *a* of the third paragraph by the following:

“(a) A is the aggregate of

- i. all designated benefits of individuals in respect of the fund,
- ii. all amounts that would, if the fund were a registered retirement savings plan, be tax-paid amounts, within the meaning assigned by paragraph *c.1* of section 905.1, in respect of the fund received by individuals who received, otherwise than because of section 961.8, designated benefits in respect of the fund, and
- iii. all amounts each of which is an amount that would, if the fund were a registered retirement savings plan, be a tax-paid amount, within the meaning of paragraph *c.1* of section 905.1, in respect of the fund received by the legal representative of the last annuitant under the fund, to the extent that the legal representative would have been entitled to designate that tax-paid amount under subparagraph i of paragraph *c.1* of section 961.1.5 if tax-paid amounts were not excluded in determining refunds of premiums as defined in the first paragraph of section 908;”.

(2) Subsection 1 applies in respect of deaths that occur after 31 December 1992.

219. (1) Section 965.0.1 of the said Act is amended by inserting the following definition in alphabetical order:

““licensed annuities provider” means a person who is licensed or otherwise authorized under a law of Canada or a province to carry on an annuities business in Canada;”.

(2) Subsection 1 has effect from 31 July 1997.

220. (1) The said Act is amended by inserting, after section 965.0.1, the following section:

“965.0.1.1. Any reference in this Part and the regulations to a pension plan as registered means the terms of the plan on the basis of which the Minister of Revenue of Canada has registered the plan for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) and as amended by each amendment referred to in paragraph *a* or *b* of subsection 15 of section 147.1 of that Act, and includes all terms that are not contained in the documents constituting the plan but that are terms of the plan by reason of the Pension Benefits Standards Act, 1985 (Revised Statutes of Canada, 1985, chapter 32, 2nd Supplement) or a similar law of a province.”

(2) Subsection 1 has effect from 31 July 1997.

221. (1) Section 965.0.3 of the said Act is amended by replacing subparagraph ii of subparagraph *b* of the third paragraph by the following:

“ii. where the preceding year is before the year 1987, under paragraph *c* of section 70 to the extent permitted by paragraph *b* of section 71, as it read for that preceding year, in respect of additional voluntary contributions made in respect of a year that satisfies the conditions specified in subparagraph *a*.”

(2) Subsection 1 applies from the taxation year 1991.

222. (1) The said Act is amended by inserting, before Chapter III of Title VI.0.1 of Book VII of Part I, the following section:

“965.0.4.1. Where a taxpayer dies in a taxation year, for the purpose of computing the taxpayer’s income for the year and the preceding taxation year, the following rules apply:

(a) subparagraph *b* of the first paragraph of section 965.0.3 shall be read without reference to subparagraph ii thereof; and

(b) subparagraph *c* of the first paragraph of section 965.0.3 shall be read as follows:

“(c) the amount by which

i. the aggregate of all amounts each of which is a contribution, other than an additional voluntary contribution, a contribution prescribed by regulation for the purposes of clause A of subparagraph i of paragraph *c* of subsection 4 of section 147.2 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) or a contribution included in the aggregate determined in respect of the individual for the year under subparagraph *a* of the second paragraph, made by the individual in the year or any preceding taxation year and after 31 December 1962, to a registered pension plan in respect of a particular year before the year 1990, if all or any part of the particular year is included in the individual’s eligible service under the plan, exceeds



ii. the aggregate of all amounts each of which is an amount deducted, in computing the individual's income for any preceding taxation year, in respect of contributions included in the aggregate determined in respect of the individual for the year under subparagraph i.””

(2) Subsection 1 applies in respect of individuals who die after 31 December 1992.

223. (1) Section 965.0.14 of the said Act is amended by striking out “notwithstanding section 2.3,”.

(2) Subsection 1 applies in respect of transfers made after 30 July 1997.

224. (1) The said Act is amended by inserting, after section 965.0.17, the following :

“965.0.17.1. Where property held in connection with a benefit provision of a registered pension plan is made available to pay benefits under another benefit provision of the plan, sections 965.0.13 to 965.0.15 apply in respect of the transaction by which the property is made so available in the same manner as they would apply if the other benefit provision were in another registered pension plan.

#### “CHAPTER IV

#### “ACQUISITION OF AN ANNUITY CONTRACT

“965.0.17.2. For the purposes of this Part, the rules provided in the second paragraph apply where at any time an individual acquires, in full or partial satisfaction of the individual's entitlement to benefits under a registered pension plan, an interest in an annuity contract purchased from a licensed annuities provider and

(a) the rights provided for under the contract are not materially different from those provided for under the plan as registered ;

(b) the contract does not permit premiums to be paid at or after that time, other than a premium paid at that time out of or under the plan to purchase the contract ;

(c) either the plan is not a plan in respect of which the Minister of Revenue of Canada may, under subsection 11 of section 147.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), give a notice of intent to revoke the registration of the plan or the Minister of Revenue of Canada waves the application of paragraph *d* of subsection 1 of section 147.4 of that Act with respect to the contract and so notifies the administrator of the plan in writing ; and

(d) the individual has not acquired the interest in the contract as a consequence of a transfer of property from the plan to a registered retirement savings plan or a registered retirement income fund.

The rules to which the first paragraph refers are as follows:

(a) the individual is deemed not to have received an amount out of or under the registered pension plan as a consequence of acquiring the interest in the annuity contract; and

(b) except for the purposes of sections 965.0.5 to 965.0.17.1, any amount received at or after the time referred to in the first paragraph by any individual under the contract is deemed to have been received under the registered pension plan.

“965.0.17.3. For the purposes of this Part, where an amendment is made at any time to an annuity contract to which section 965.0.17.2 or paragraph *a* of section 2.3 applies, other than an amendment the sole effect of which is to provide for an earlier annuity commencement that avoids the application of paragraph *b* of section 965.0.18, and the rights provided for under the contract are materially altered because of the amendment, the following rules apply:

(a) each individual who has an interest in the contract immediately before that time is deemed to have received at that time an amount under a pension plan equal to the fair market value of the interest immediately before that time;

(b) the contract as amended is deemed to be a separate annuity contract issued at that time otherwise than pursuant to a pension plan; and

(c) each individual who has an interest in the separate annuity contract immediately after that time is deemed to have acquired the interest at that time at a cost equal to the fair market value of the interest immediately after that time.

“965.0.17.4. For the purposes of this Part, where an annuity contract, in this section referred to as the “original contract”, to which section 965.0.17.2 or paragraph *a* of section 2.3 applies is, at any time, replaced by another contract, the following rules apply:

(a) where the rights provided for under the other contract are not materially different from those provided for under the original contract, the other contract is deemed to be the same contract as, and a continuation of, the original contract; and

(b) in any other case, each individual who has an interest in the original contract immediately before that time is deemed to have received at that time an amount under a pension plan equal to the fair market value of the interest immediately before that time.”

(2) Subsection 1 applies in respect of transactions, or annuity contract acquisitions, amendments or replacements, that occur after 30 July 1997.

225. (1) Section 965.0.18 of the said Act is amended

(1) by replacing, in the portion before paragraph *a*, “subsection 15 of section 147.3” by “subsection 4 of section 147.4”;

(2) by replacing, in paragraph *b*, the words “a single” by the word “an”.

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

226. (1) Section 979.19 of the said Act is amended

(1) by replacing the definition of “eligible funeral arrangement” by the following:

““eligible funeral arrangement” at a particular time means an arrangement established and maintained by a qualifying person solely for the purpose of funding funeral or cemetery services with respect to one or more individuals and of which there is one or more custodians each of whom was resident in Canada at the time the arrangement was established, where

(*a*) each contribution made before the particular time under the arrangement was made for the purpose of funding funeral or cemetery services to be provided by the qualifying person with respect to an individual; and

(*b*) for each such individual, the aggregate of all relevant contributions made before the particular time in respect of the individual does not exceed

i. \$15,000, where the arrangement solely covers funeral services with respect to the individual,

ii. \$20,000, where the arrangement solely covers cemetery services with respect to the individual, and

iii. \$35,000, in any other case;”;

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

“(b) in any other case, a qualifying person who receives a contribution under the arrangement as a deposit for the provision by the person of funeral or cemetery services;”;

(3) by inserting the following definition in alphabetical order:

““cemetery care trust” means a trust established pursuant to an Act of a province for the care and maintenance of a cemetery;”;

(4) by replacing the definition of “qualifying person” by the following :

““qualifying person” means a person licensed or otherwise authorized under the laws of a province to provide funeral or cemetery services with respect to individuals;”;

(5) by inserting the following definition in alphabetical order:

““cemetery services” with respect to an individual means property, including interment vaults, markers, flowers, liners, urns, shrubs and wreaths, and services that relate directly to cemetery arrangements in Canada in consequence of the death of the individual including property and services to be funded out of a cemetery care trust;”;

(6) by replacing the definition of “funeral services” by the following :

““funeral services” with respect to an individual means property and services, other than cemetery services with respect to the individual, that relate directly to funeral arrangements in Canada in consequence of the death of the individual;”;

(7) by replacing paragraphs *a* and *b* of the definition of “relevant contribution” by the following :

“(a) a contribution under the particular arrangement, other than a contribution made by way of a transfer from an eligible funeral arrangement, for the purpose of funding funeral or cemetery services with respect to the individual; or

“(b) such portion of a contribution to another arrangement that was an eligible funeral arrangement, other than any such contribution made by way of a transfer from any eligible funeral arrangement, as can reasonably be considered to have subsequently been used to make a contribution under the particular arrangement by way of a transfer from an eligible funeral arrangement for the purpose of funding funeral or cemetery services with respect to the individual.”;

(8) by adding the following paragraphs :

“For the purposes of the definition of “eligible funeral arrangement” in the first paragraph, any payment, other than the portion of the payment that is a contribution to a cemetery care trust, that is made in consideration for the immediate acquisition of a right to burial in or on property that is set apart or used as a place for the burial of human remains or of any interest in a building or structure for the permanent placement of human remains, shall be considered to have been made pursuant to a separate arrangement that is not an eligible funeral arrangement.

“Where, in any of the provisions of this Title, a reference to “funeral or cemetery services” is made, that reference includes a reference to a combination of such services.”

(2) Subsection 1 applies from the taxation year 1993.

227. (1) Section 979.20 of the said Act is amended

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

“*i.* included in computing a person’s income solely because of the provision by another person of funeral or cemetery services under an eligible funeral arrangement, or”;

(2) by replacing the second paragraph by the following :

“Subparagraph *ii* of subparagraph *b* of the first paragraph shall not affect the consequences under this Part of the disposition of any right under an eligible funeral arrangement to payment for the provision of funeral or cemetery services.”

(2) Subsection 1 applies from the taxation year 1993.

228. (1) Section 979.21 of the said Act is amended

(1) by replacing the portion before the formula in the first paragraph by the following :

“979.21. Where at any particular time in a taxation year a particular amount is distributed, otherwise than as payment for the provision of funeral or cemetery services with respect to an individual, to a taxpayer from an arrangement that was, at the time it was established, an eligible funeral arrangement and the particular amount is paid from the balance in respect of the individual under the arrangement, there shall be added in computing the taxpayer’s income for the year from property the lesser of the particular amount and the amount determined by the formula”;

(2) by replacing subparagraphs *a* to *c* of the second paragraph by the following :

“(a) A is the balance in respect of the individual under the arrangement immediately before the particular time, determined without regard to the value of property in a cemetery care trust ;

“(b) B is the aggregate of all payments made from the arrangement before the particular time for the provision of funeral or cemetery services with respect to the individual, other than cemetery services funded by property in a cemetery care trust ; and

“(c) C is the aggregate of all relevant contributions made before the particular time in respect of the individual under the arrangement, other than contributions in respect of the individual that were in a cemetery care trust.”

(2) Subsection 1 applies from the taxation year 1993.

229. (1) Section 985 of the said Act is amended

(1) by replacing the first paragraph by the following :

“985. A person is exempt from tax for a period when the person is

(a) a corporation, commission or association all of the capital, property or shares, other than directors’ qualifying shares, of which is owned by the State or Her Majesty in right of Canada or a province ;

(b) a corporation, commission or association not less than 90% of the capital, property or shares, other than directors’ qualifying shares, of which is owned by the State or Her Majesty in right of Canada or a province ;

(c) a corporation all of the capital, property or shares, other than directors’ qualifying shares, of which is owned by another corporation, a commission or an association to which this subparagraph or subparagraph *a* applies for the period ;

(d) a corporation, commission or association not less than 90% of the capital, property or shares, other than directors’ qualifying shares, of which is owned by

i. the State, Her Majesty in right of Canada or a province or a person to which subparagraph *a* or *c* applies for the period, or

ii. one or more municipalities in Canada in combination with one or more persons referred to in subparagraph i ;

(e) a corporation all of the capital, property or shares, other than directors’ qualifying shares, of which is owned by another corporation, a commission or an association to which this subparagraph or any of subparagraphs *a* to *d* applies for the period ;

(f) subject to sections 985.0.1 and 985.0.2, a corporation, commission or association not less than 90% of the capital of which is owned by one or more municipalities in Canada, where not more than 10% of the income of the corporation, commission or association for the period is derived from activities carried on outside the geographical boundaries of the territories of those municipalities ; or

(g) subject to sections 985.0.1 and 985.0.2, a corporation all of the capital, property or shares, other than directors’ qualifying shares, of which is owned

by another corporation, a commission or an association to which this subparagraph or subparagraph *f* applies for the period, where not more than 10% of the corporation's income for the period is derived from

i. where subparagraph *f* applies to the other corporation, the commission or the association, activities carried on outside the geographical boundaries of the territories of the municipalities referred to in that subparagraph *f* in its application to that other corporation, commission or association, as the case may be, or

ii. where this subparagraph applies to the other corporation, activities carried on outside the geographical boundaries of the territories of the municipalities referred to in this subparagraph in its application to that other corporation.”;

(2) by striking out the second paragraph;

(3) by replacing the third paragraph by the following paragraph:

“The first paragraph does not apply to a corporation, commission or association during a period in which a person other than the State, Her Majesty in right of Canada or a province or a municipality in Canada has a right to the capital, property or shares of the corporation, commission or association or a right to acquire them.”

(2) Subsection 1 applies to taxation years or fiscal periods that begin after 31 December 1998.

230. (1) The said Act is amended by inserting, after section 985, the following sections:

“985.0.1. For the purposes of subparagraphs *f* and *g* of the first paragraph of section 985, income of a corporation, commission or association from activities carried on outside the geographical boundaries of the territory of a municipality does not include income from an activity carried on by

(a) the corporation, commission or association, as the case may be, within the geographical boundaries of Canada under an agreement in writing entered into with Her Majesty in right of Canada or a corporation controlled by Her Majesty in right of Canada and to which any of subparagraphs *a* to *g* of the first paragraph of section 985 applies;

(b) the corporation, commission or association, as the case may be, within the geographical boundaries of a province under an agreement in writing entered into with the State or Her Majesty in right of that province or a corporation controlled by the State or Her Majesty in right of that province and to which any of subparagraphs *a* to *g* of the first paragraph of section 985 applies; or

(c) the corporation, commission or association, as the case may be, within the geographical boundaries of the territory of a municipality in Canada under an agreement in writing entered into with that municipality or a corporation controlled by that municipality and to which any of subparagraphs *a* to *g* of the first paragraph of section 985 applies.

“985.0.2. For the purposes of subparagraph *f* of the first paragraph of section 985 and section 985.0.1, 90% of the capital of a corporation that has issued share capital is owned by one or more municipalities in Canada only when the municipalities own shares of the capital stock of the corporation that give the municipalities 90% or more of the votes that could be cast under all circumstances at an annual meeting of shareholders of the corporation.”

(2) Subsection 1 applies to taxation years or fiscal periods that begin after 31 December 1998.

231. The said Act is amended by inserting, after section 985.8.1, the following:

#### “DIVISION III.1

#### “DISBURSEMENT QUOTA”.

232. (1) Section 998 of the said Act is amended

(1) by replacing paragraph *c.1* by the following:

“(c.1) a corporation accepted, under paragraph *o.1* of subsection 1 of section 149 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) by the Minister of Revenue of Canada as a funding medium for the purposes of the registration of a plan as a registered pension plan, and incorporated and operated throughout the period referred to in section 980

i. solely for the administration of that registered pension plan, or

ii. for the administration of that registered pension plan and for no other purpose other than acting as trustee of, or administering, a trust governed by a retirement compensation arrangement, where the terms of the arrangement provide for benefits only in respect of individuals who are provided with benefits under the registered pension plan;”;

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

“(g) a trust established under a registered education savings plan, to the extent provided in Title III of Book VII;”;

(3) by inserting, after paragraph *j.1*, the following paragraph:



“(j.2) a cemetery care trust;”;

(4) by replacing, in paragraph *m*, the word “heir” by the words “legatee by particular title”;

(5) by replacing paragraph *o* by the following:

“(o) an environmental trust.”

(2) Paragraph 1 of subsection 1 applies from the taxation year 1994.

(3) Paragraph 2 of subsection 1 has effect from 1 January 1998.

(4) Paragraph 3 of subsection 1 applies from the taxation year 1993.

(5) Paragraph 4 of subsection 1 has effect from 18 June 1998.

(6) Paragraph 5 of subsection 1 applies from the taxation year 1997.

233. (1) Section 999.1 of the said Act is amended

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

“(a.0.1) for the purpose of determining the corporation’s fiscal period after that time, the corporation is deemed not to have established a fiscal period before that time;”;

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

“(b) the corporation is deemed to dispose, at the time, in this section referred to as the “disposition time”, that is immediately before the time that is immediately before that time, of each property that was owned by it immediately before that time for an amount equal to its fair market value at that time, and to reacquire the property at that time at a cost equal to that fair market value;”;

(3) by striking out paragraphs *c* and *d*;

(4) by adding, after paragraph *d*, the following paragraphs:

“(e) for the purposes of sections 222 to 230.0.0.6, 330, 359 to 418.36, 419 to 419.4, 419.6, 600.1, 600.2, 727 to 737 and 772.2 to 772.13, the corporation is deemed to be a new corporation the first taxation year of which began at that time; and

“(f) where, immediately before the disposition time, the corporation’s eligible intangible capital amount in respect of a business exceeds the aggregate of 75% of the fair market value of the intangible capital property in respect of that business and the amount otherwise deducted under paragraph *b* of section 130 in computing the corporation’s income from that business for the taxation year that ended immediately before that time, the excess shall be

deducted under that paragraph *b* in computing the corporation's income from that business for that taxation year."

(2) Subsection 1 applies in respect of a corporation that becomes or ceases to be exempt from tax on its taxable income under Part I of the said Act after 26 April 1995.

234. Section 1001 of the said Act, amended by section 273 of chapter 83 of the statutes of 1999, is replaced by the following :

"1001. Every person, whether or not the person is liable to pay tax and whether or not a fiscal return has been filed, shall, on demand from the Minister, sent by registered mail or served personally, file with the Minister in prescribed form and containing the prescribed information a fiscal return for the taxation year and within such time as may be designated in the demand."

235. Section 1002 of the said Act is amended by inserting, after the words "who has not filed a", the word "fiscal".

236. (1) Section 1003 of the said Act is replaced by the following :

"1003. Where section 217.9.1 or 217.17 applies in computing an individual's income for a taxation year from a business, or where an individual who carries on a business in a taxation year dies in the year and after the end of a fiscal period of the business that ends in the year, another fiscal period of the business, in this section referred to as the "short period", ends in the year because of the individual's death, and the individual's legal representative elects that this section apply, the following rules apply :

(a) the individual's income from businesses for short periods, if any, shall not be included in computing the individual's income for the year; and

(b) the individual's legal representative shall file a separate fiscal return for the year under this Part in respect of the individual as if the return were filed in respect of another person and shall pay the tax payable under this Part by that other person for the year computed as if

i. the other person's only income for the year were the amount determined by the formula

$A + B - C$ , and

ii. subject to sections 693.1 and 752.0.26, that other person were entitled to the deductions to which the individual is entitled under sections 725 to 725.7, 752.0.1 to 752.0.13.3 and 752.0.14 to 752.0.18.9 for the year in computing the individual's taxable income or tax payable under this Part, as the case may be, for the year.

In the formula provided for in subparagraph *i* of subparagraph *b* of the first paragraph,

(a) A is the aggregate of all amounts each of which is the individual's income from a business for a short period;

(b) B is the aggregate of all amounts each of which is an amount deducted under section 217.17 in computing the individual's income for the taxation year in which the individual dies; and

(c) C is the aggregate of all amounts each of which is an amount included under section 217.9.1 in computing the individual's income for the taxation year in which the individual dies.”

(2) Subsection 1 applies from the taxation year 1996. However, where subparagraph *ii* of subparagraph *b* of the second paragraph of section 1003 of the said Act, enacted by subsection 1, applies to the taxation year 1996, it shall be read with “752.0.18.9” replaced by “752.0.18.1”.

237. Section 1004 of the said Act is replaced by the following:

“1004. Every person required by this Title to file a fiscal return shall in the fiscal return estimate the amount of tax payable.”

238. (1) The said Act is amended by inserting, after section 1007, the following sections:

“1007.1. The Minister may, within the time specified in the second paragraph, determine any income or loss of a partnership for a fiscal period of the partnership and any deduction or other amount, or any other matter, in respect of the partnership for the period that is relevant in determining the income, taxable income or taxable income earned in Canada of, tax or other amount payable by, or any amount refundable to or deemed to have been paid or to have been an overpayment by, any member of the partnership for any taxation year under this Part.

The Minister may make a determination under the first paragraph within three years after the day that is the later of

(a) the day on or before which a member of a partnership is required under section 1086R23.1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1) to file an information return for the fiscal period; and

(b) the day on which the information return referred to in subparagraph *a* is filed.

“1007.2. Where a determination is made by the Minister under section 1007.1 in respect of a partnership for a fiscal period, the Minister shall send a notice of the determination to the partnership and to each person who was a member of the partnership during the fiscal period.

“1007.3. No determination made by the Minister under section 1007.1 in respect of a partnership for a fiscal period is invalid solely because one or more persons who were members of the partnership during the fiscal period did not receive a notice of the determination.

“1007.4. Where the Minister makes a determination under section 1007.1 or a redetermination in respect of a partnership, the following rules apply :

(a) subject to the rights of objection and appeal of the member of the partnership referred to in section 93.1.1.1 of the Act respecting the Ministère du Revenu (chapter M-31) in respect of the determination or redetermination, as the case may be, the determination or redetermination is binding on the Minister and each member of the partnership for the purpose of calculating the income, taxable income or taxable income earned in Canada of, tax or other amount payable by, or any amount refundable to or deemed to have been paid or to have been an overpayment by, the members for any taxation year under this Part ; and

(b) notwithstanding section 1007 and sections 1010 to 1011, the Minister may, before the end of the day that is one year after the day on which all rights of objection and appeal expire or are determined in respect of the determination or redetermination, assess the tax, interest, penalties or other amounts payable and determine an amount deemed to have been paid or to have been an overpayment under this Part in respect of any member of the partnership and any other taxpayer for any taxation year as may be necessary to give effect to the determination or redetermination or a final judgment of the Court of Québec, the Court of Appeal or the Supreme Court of Canada.

“1007.5. Where, as a result of representations made to the Minister that a person was a member of a partnership for a fiscal period of the partnership, a determination is made under section 1007.1 in respect of the fiscal period and the Minister or, as part of a final judgment, the Court of Québec, the Court of Appeal or the Supreme Court of Canada concludes at a subsequent time that the partnership did not exist for the fiscal period or that, throughout the fiscal period, the person was not a member of the partnership, the Minister may, notwithstanding sections 1007 and 1010 to 1011, within one year after that subsequent time, assess the tax, interest, penalties or other amounts payable, or determine an amount deemed to have been paid or to have been an overpayment under this Part, by any taxpayer for any taxation year, but only to the extent that the assessment or determination can reasonably be regarded

(a) as relating to any matter that was relevant in the making of the determination made under section 1007.1 ;

(b) as resulting from the conclusion that the partnership did not exist for the fiscal period ; or

(c) as resulting from the conclusion that the person was, throughout the fiscal period, not a member of the partnership.”

(2) Subsection 1 applies in respect of determinations made after 11 May 2000.

239. Section 1008 of the said Act is amended by replacing the word “return” by the words “fiscal return”.

240. (1) Section 1010 of the said Act is amended by adding, after subparagraph iii of paragraph *a.1* of subsection 2, the following subparagraphs :

“iv. a reassessment of the taxpayer’s tax is required to be made as a consequence of a reduction under section 359.15 of an amount purported to be renounced by the corporation under any of the sections referred to in that section, or

“v. a reassessment of the taxpayer’s tax is required to be made in order to give effect to the application of sections 752.0.10.10.1 and 752.0.10.18;”.

(2) Subsection 1, where it enacts subparagraph iv of paragraph *a.1* of subsection 2 of section 1010 of the said Act, applies from the taxation year 1996 and, where it enacts subparagraph v of that paragraph *a.1*, has effect from 1 August 1997.

241. Section 1011 of the said Act is amended, in paragraph *b*, by replacing the word “return” by the words “fiscal return”.

242. (1) Section 1012.1 of the said Act is amended by inserting, after paragraph *d.1*, the following paragraph :

“(d.1.1) section 965.0.3 because of the application of section 965.0.4.1 as a consequence of the taxpayer’s death in the subsequent taxation year;”.

(2) Subsection 1 applies in respect of taxpayers who die after 31 December 1992.

243. (1) Section 1015 of the said Act, amended by section 20 of chapter 65 of the statutes of 1999, is again amended, in the second paragraph,

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

“(e) an amount described in paragraph *c* of section 311;”;

(2) by inserting, after subparagraph *e*, the following subparagraphs :

“(e.1) an amount described in any of paragraphs *e.2* to *e.4* of section 311 ;

“(e.2) a benefit under a supplementary unemployment benefit plan;”;

(3) by adding, after subparagraph *q*, the following subparagraph:

“(r) a payment under a plan that is a registered education savings plan or that is such a plan solely for the purposes of sections 904 and 904.1.”

(2) Paragraph 1 of subsection 1 and paragraph 2 of that subsection, where it enacts subparagraph *e.2* of the second paragraph of section 1015 of the said Act, have effect from 30 June 1996.

(3) Paragraph 2 of subsection 1, where it enacts subparagraph *e.1* of the second paragraph of section 1015 of the said Act, applies in respect of payments made after 31 December 1992. However, where that subparagraph *e.1* applies in respect of payments made before 1 July 1996, it shall be read as follows:

“(e.1) an amount described in paragraph *e.2* of section 311;”.

(4) Paragraph 3 of subsection 1 applies in respect of payments made after 31 December 1997.

244. Section 1016 of the said Act is amended, in the French text, by replacing the word “*ré*tention” by the word “*re*tenue”.

245. (1) Section 1026.0.2 of the said Act is amended by replacing paragraph *a* of the definition of “net tax owing” by the following:

“(a) the tax payable by the individual for the year under this Part and Part III.15, determined without reference to the specified tax consequences for the year; exceeds”.

(2) Subsection 1 applies from the taxation year 1998.

246. (1) Section 1029.6.1 of the said Act is amended by replacing paragraph *b* of the definition of “tax-exempt corporation” by the following:

“(b) a corporation that would be exempt from tax under section 985 but for section 192;”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1998.

247. (1) Section 1029.8.1 of the said Act is amended by replacing subparagraph *ii* of paragraph *k* by the following:

“ii. a corporation that would be exempt from tax under section 985 but for section 192, or”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1998.

248. (1) Section 1029.8.9 of the said Act is amended by replacing, in subparagraph *a* of the third paragraph, “fifth” by “fourth”.

(2) Subsection 1 applies in respect of applications for an advance ruling filed after 25 March 1997.

249. (1) The said Act is amended by inserting, after section 1029.8.21, the following section:

“1029.8.21.0.1. In determining, for the purposes of Divisions II to II.4, whether work undertaken by or on behalf of a partnership constitutes scientific research and experimental development, the references in subsection 3 of section 222 to “taxpayer” shall be read as references to “partnership”.”

(2) Subsection 1 applies in respect of work undertaken after 27 February 1995.

250. (1) Section 1029.8.21.3 of the said Act is amended

(1) by replacing, in the first paragraph, “Subject to the second paragraph, a taxpayer” by “A taxpayer”;

(2) by striking out the second paragraph.

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

251. (1) The said Act is amended by inserting, after section 1029.8.21.3, the following section:

“1029.8.21.3.1. A taxpayer may not be deemed to have paid an amount to the Minister on account of the taxpayer’s tax payable for a particular taxation year under any of sections 1029.7, 1029.8, 1029.8.6, 1029.8.7, 1029.8.9.0.3, 1029.8.9.0.4, 1029.8.10 and 1029.8.11 in respect of an expenditure that is wages or part of a consideration, a qualified expenditure or an eligible fee, as the case may be, if that expenditure is deemed not to be an expenditure on or in respect of scientific research and experimental development because of the application of section 230.0.0.5.”

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

252. (1) Section 1029.8.21.4 of the said Act, amended by section 174 of chapter 83 of the statutes of 1999, is again amended by replacing subparagraph ii of paragraph *b* of the definition of “eligible taxpayer” in the first paragraph by the following:

“ii. a corporation that would be exempt from tax for the year under section 985 but for section 192;”

(2) Subsection 1 applies to taxation years that begin after 31 December 1998.

253. (1) Section 1029.8.22 of the said Act, amended by section 179 of chapter 83 of the statutes of 1999, is again amended by replacing paragraph *b* of the definition of “qualified corporation” in the first paragraph by the following:

“(b) a corporation that would be exempt from tax for the year under section 985 but for section 192,”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1998.

254. (1) Section 1029.8.33.2 of the said Act, amended by section 180 of chapter 83 of the statutes of 1999, is again amended by replacing paragraph *b* of the definition of “qualified corporation” in the first paragraph by the following:

“(b) a corporation that would be exempt from tax for the year under section 985 but for section 192,”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1998.

255. (1) Section 1029.8.34 of the said Act, amended by section 189 of chapter 83 of the statutes of 1999, is again amended by replacing paragraph *c* of the definition of “qualified corporation” in the first paragraph by the following:

“(c) a corporation that, in accordance with Book VIII, is exempt from tax for the year under this Part or that would be but for section 192,”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1998.

256. (1) Section 1029.8.36.0.0.1 of the said Act, enacted by section 194 of chapter 83 of the statutes of 1999, is amended by replacing paragraph *c* of the definition of “qualified corporation” in the first paragraph by the following:

“(c) a corporation that would be exempt from tax for the year under section 985 but for section 192; or”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1998.

257. (1) Section 1029.8.36.0.0.4 of the said Act, enacted by section 194 of chapter 83 of the statutes of 1999, is amended by replacing paragraph *c* of the definition of “excluded corporation” in the first paragraph by the following:

“(c) a corporation that would be exempt from tax for the year under section 985 but for section 192; or”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1998.



258. (1) Section 1029.8.36.0.3.3 of the said Act, enacted by section 198 of chapter 83 of the statutes of 1999, is amended by replacing paragraph *c* of the definition of “qualified corporation” in the first paragraph by the following :

“(c) a corporation that would be exempt from tax for the year under section 985 but for section 192; or”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1998.

259. (1) Section 1029.8.36.0.3.8 of the said Act, enacted by section 198 of chapter 83 of the statutes of 1999, is amended by replacing paragraph *c* of the definition of “qualified corporation” in the first paragraph by the following :

“(c) a corporation that would be exempt from tax for the year under section 985 but for section 192; or”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1998.

260. (1) Section 1029.8.36.0.3.18 of the said Act, enacted by section 198 of chapter 83 of the statutes of 1999, is amended by replacing paragraph *b* of the definition of “qualified corporation” in the first paragraph by the following :

“(b) a corporation that would be exempt from tax for the year under section 985 but for section 192; or”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1998.

261. (1) Section 1029.8.36.0.3.28 of the said Act, enacted by section 198 of chapter 83 of the statutes of 1999, is amended by replacing paragraph *b* of the definition of “qualified corporation” by the following :

“(b) a corporation that would be exempt from tax for the year under section 985 but for section 192;”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1998.

262. (1) Section 1029.8.36.4 of the said Act, amended by section 208 of chapter 83 of the statutes of 1999, is again amended by replacing paragraph *b* of the definition of “qualified corporation” in the first paragraph by the following :

“(b) a corporation that would be exempt from tax for the year under section 985 but for section 192.”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1998.

263. (1) The heading of Division II.6.4 of Chapter III.1 of Title III of Book IX of Part I of the said Act is replaced by the following :

“CREDIT IN RESPECT OF ENVIRONMENTAL TRUSTS”.

(2) Subsection 1 applies to taxation years that end after 18 February 1997.

264. (1) Section 1029.8.36.52 of the said Act is amended, in the second paragraph,

(1) by replacing, in subparagraph *a*, the words “a mining reclamation trust” by the words “an environmental trust”;

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

“(b) B is the amount by which the aggregate of all amounts in respect of the trust that are included, otherwise than because of the taxpayer being a member of a partnership, because of section 692.1 in computing the taxpayer’s income for the particular year exceeds the aggregate of all amounts in respect of the trust that are deducted, otherwise than because of the taxpayer being a member of a partnership, because of that section 692.1 in computing such income; and”.

(2) Paragraph 1 of subsection 1 applies to taxation years that end after 18 February 1997.

(3) Paragraph 2 of subsection 1 applies to taxation years that end after 22 February 1994.

265. (1) Section 1029.8.36.54 of the said Act, amended by section 212 of chapter 83 of the statutes of 1999, is again amended by replacing the definition of “qualified corporation” in the first paragraph by the following :

““qualified corporation”, in respect of a taxation year, means a corporation that, in the year, carries on a shipbuilding business in Québec and has an establishment in Québec, and that is neither a corporation that is exempt from tax for the year under Book VIII nor a corporation that would be exempt from tax under section 985 but for section 192;”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1998.

266. (1) Section 1029.8.36.73 of the said Act, enacted by section 218 of chapter 83 of the statutes of 1999, is amended by replacing paragraph *b* of the definition of “qualified corporation” in the first paragraph by the following :

“(b) a corporation that would be exempt from tax for the taxation year under section 985 but for section 192;”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1998.

267. (1) Section 1029.8.36.89 of the said Act, enacted by section 218 of chapter 83 of the statutes of 1999, is amended, in the definition of “qualified corporation” in the first paragraph,

(1) by replacing, in the French text, the portion before paragraph *a* by the following :

“« société admissible », pour une année d'imposition, désigne une société qui, dans l'année, exploite une entreprise au Québec et y a un établissement, dont la totalité ou la quasi-totalité du revenu brut, pour l'année, provient de l'exploitation d'une entreprise admissible, et qui n'est pas l'une des sociétés suivantes :” ;

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

“(b) a corporation that would be exempt from tax for the year under section 985 but for section 192 ; or”.

(2) Paragraph 1 of subsection 1 has effect from 1 January 1998.

(3) Paragraph 2 of subsection 1 applies to taxation years that begin after 31 December 1998.

268. (1) Section 1029.8.50 of the said Act is amended by replacing the portion before subparagraph *a* of the first paragraph by the following :

“1029.8.50. Where an individual is required to repay all or part of an amount that is a benefit which the individual received under the Act respecting the Québec Pension Plan (chapter R-9) or a similar plan within the meaning of that Act, or under the Unemployment Insurance Act (Revised Statutes of Canada, 1985, chapter U-1) or the Employment Insurance Act (Statutes of Canada, 1996, chapter 23) and included in computing the individual's income for one or more preceding taxation years, the individual is deemed, except where the amount is repaid under Part VII of the Unemployment Insurance Act or Part VII of the Employment Insurance Act, to have paid to the Minister on the individual's balance-due day for a particular taxation year in which the individual repays such an amount, if the individual is resident in Québec on the last day of that taxation year, on account of the individual's tax payable for the particular year under this Part, except where an amount is deducted by the individual for the particular year under paragraph *d* of section 336 in respect of all or part of the amount to be repaid by the individual or where the individual is an individual to whom the rules provided for in Book V.2.1 apply for the particular year, an amount equal to the product obtained by multiplying by such proportion as the amount repaid by the individual in the particular year is of the total amount to be repaid by the individual, the aggregate of all amounts each of which is the amount by which”.

(2) Subsection 1 has effect from 30 June 1996. However, the portion of the first paragraph of section 1029.8.50 of the said Act before subparagraph *a*, enacted by subsection 1, shall,

(1) where it applies to taxation years that are before the taxation year 1998, be read without reference to “or where the individual is an individual to whom the rules provided for in Book V.2.1 apply for the particular year” ; and

(2) where it applies before 12 June 1998, be read with “paragraph *d* of section 336” replaced by “paragraph *d* of subsection 1 of section 336”.

269. (1) Section 1029.8.59 of the said Act is amended by replacing paragraph *b* by the following :

“(b) where the person has a severe and prolonged mental or physical impairment the effects of which are such that the person’s ability to perform a basic activity of daily living is markedly restricted and the period applicable to that person for the year in relation to the individual is the period described in paragraph *b* of section 1029.8.55, the prescribed form on which a physician, within the meaning of section 752.0.18 or, where the person has a sight impairment, a physician or an optometrist, within the meaning of that section 752.0.18, or, where the person has a hearing impairment, a physician or an audiologist, within the meaning of that section 752.0.18, certifies that the person has such a severe and prolonged mental or physical impairment.”

(2) Subsection 1 applies in respect of certifications made after 18 February 1997.

270. (1) Section 1029.8.67 of the said Act is amended by replacing paragraph *b* of the definition of “earned income” by the following :

“(b) the amount by which all amounts included in computing the individual’s income or that would be so included, but for paragraphs *e*, *w* and *y* of section 488R1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1), under sections 34 to 58.3, paragraphs *e.2* to *e.4* of section 311 and paragraph *g* or *h* of section 312 exceeds the amount deducted in computing the individual’s income, or that would be so deducted, but for paragraph *e* of that section 488R1, under section 78.6;”.

(2) Subsection 1 applies from the taxation year 1994. However, where paragraph *b* of the definition of “earned income” in section 1029.8.67 of the said Act, enacted by subsection 1, applies

(1) to taxation years that are before the taxation year 1996, it shall be read as follows :

“(b) the amount by which all amounts included in computing the individual’s income or that would be so included, but for section 36.1 and paragraphs *e*, *k*, *w* and *y* of section 488R1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1), under sections 34 to 58.3, paragraph *e.2* of section 311 and paragraph *e*, *g* or *h* of section 312 exceeds the amount deducted in computing the individual’s income, or that would be so deducted, but for paragraphs *e* and *k* of that section 488R1, under section 78.6;”;

(2) to the taxation year 1996, it shall be read as follows :

“(b) the amount by which all amounts included in computing the individual’s income or that would be so included, but for section 36.1 and paragraphs *e*, *k*,

w and y of section 488R1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1), under sections 34 to 58.3, paragraphs e.2 to e.4 of section 311 and paragraph e, g or h of section 312 exceeds the amount deducted in computing the individual's income, or that would be so deducted, but for paragraphs e and k of that section 488R1, under section 78.6;”;

(3) to the taxation year 1997, it shall be read as follows :

“(b) the amount by which all amounts included in computing the individual's income or that would be so included, but for paragraphs e, w and y of section 488R1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1), under sections 34 to 58.3, paragraphs e.2 to e.4 of section 311 and paragraph e, g or h of section 312 exceeds the amount deducted in computing the individual's income, or that would be so deducted, but for paragraph e of that section 488R1, under section 78.6;”.

271. (1) The said Act is amended by inserting, after section 1029.8.116, enacted by section 220 of chapter 83 of the statutes of 1999, the following :

#### “DIVISION II.18

#### “TAX CREDIT FOR MEDICAL EXPENSES

##### “§1. — *Interpretation*

“1029.8.117. In this division,

“eligible individual” for a taxation year means an individual, other than a trust,

(a) who is resident in Canada throughout the year or, if the individual dies in the year, throughout the portion of the year before the individual's death ;

(b) who, before the end of the year, has attained the age of 18 years ; and

(c) whose incomes for the year from all offices and employments, computed without reference to section 43, and businesses each of which is a business carried on by the individual either alone or as a partner actively engaged in the business total \$2,500 or more ;

“family income” of an individual for a taxation year means the aggregate of all amounts each of which is the income of the individual for the year, computed with reference to the rules in Title II of Book V.2.1 and without reference to the gain from the disposition of property to which sections 484 to 484.6 apply, and of the person who is the individual's spouse at the end of 31 December of the year and who, at that time, is not living separate and apart from the individual.

For the purposes of the definition of “family income” in the first paragraph, a person shall not be considered to be living separate and apart from an individual at the end of 31 December of a taxation year unless the person was living separate and apart from the individual at that time, because of a breakdown of their marriage, for a period of at least 90 days that includes that time.

“§2. — *Credit*

“1029.8.118. An eligible individual, for a taxation year, who is resident in Québec on 31 December of that year and who files a fiscal return under section 1000 for that year is deemed to have paid to the Minister, on the eligible individual’s balance-due day for that year, on account of the eligible individual’s tax payable for the year under this Part, an amount equal to the amount determined by the formula

A – B.

In the formula provided for in the first paragraph,

(a) A is the lesser of \$500 and the product obtained by multiplying by 25/23 the amount determined in accordance with section 752.0.11 for the purpose of computing the tax payable under this Part by the eligible individual for the taxation year; and

(b) B is 5% of the amount by which the individual’s family income for the year exceeds \$17,500.

For the purposes of this section, an individual who was resident in Québec immediately before the individual’s death is deemed to be resident in Québec on 31 December of the year in which the individual died.”

(2) Subsection 1 applies from the taxation year 1997. However, where the definition of “family income” in section 1029.8.117 of the said Act, enacted by subsection 1, applies to the taxation year 1997, it shall be read as follows :

““family income” of an individual for a taxation year means the aggregate of all amounts each of which is the income of the individual for the year, computed without reference to the gain from the disposition of property to which sections 484 to 484.6 apply, and of the person who is the individual’s spouse at the end of 31 December of the year and who, at that time, is not living separate and apart from the individual.”

272. (1) The said Act is amended by inserting, after section 1034, the following section:

“1034.0.0.1. Where a particular person or partnership is deemed under section 427.4 to have disposed of a property at any time, the person referred to in subparagraph i or ii of paragraph a of that section is solidarily liable with

each other taxpayer to pay a part of the other taxpayer's liabilities under this Part for each taxation year equal to the amount determined by the formula

$A - B$ .

In the formula provided for in the first paragraph,

(a) A is the total of amounts payable under this Part by the other taxpayer for the year; and

(b) B is the amount that would, if the particular person or partnership were not deemed under section 427.4 to have disposed of the property, be determined under subparagraph *a* in respect of the other taxpayer for the year.

However, nothing under this section is deemed to limit the liability of the other taxpayer under any other provision of this Act.”

(2) Subsection 1 applies in respect of each disposition that is deemed, under section 427.4 of the said Act, to occur after 26 April 1995.

273. (1) Section 1035 of the said Act, amended by section 223 of chapter 83 of the statutes of 1999, is replaced by the following:

“1035. The Minister may at any time assess a transferee in respect of any amount payable by virtue of section 1034, a person in respect of any amount payable by virtue of section 1034.0.0.1, an individual in respect of any amount payable by virtue of subsections 1 and 2 of section 1034.1, a person in respect of any amount payable by that person by virtue of subsection 2.1 of section 1034.1 or section 1034.2 or 1034.3 or an eligible spouse of an individual in respect of any amount payable by virtue of section 1034.4, and this Book applies, with the necessary modifications, to an assessment made under this section as though it had been made under Title II.”

(2) Subsection 1 has effect from 27 April 1995.

274. (1) Section 1036 of the said Act, amended by section 224 of chapter 83 of the statutes of 1999, is again amended by replacing, in the portion before paragraph *a* and in paragraph *b*, “1034,” by “1034, 1034.0.0.1,”.

(2) Subsection 1 has effect from 27 April 1995. However, where the portion of section 1036 of the said Act before paragraph *a* and paragraph *b* of that section, as amended by subsection 1, apply to a taxation year that is before the taxation year 1998, they shall be read with “1034, 1034.0.0.1, 1034.1 to 1034.4 and 1034.6” replaced by “1034, 1034.0.0.1 and 1034.1 to 1034.4”.

275. (1) Section 1044 of the said Act is amended by replacing the portion before subparagraph *a* of the second paragraph by the following:

“1044. Where, for a particular taxation year, a taxpayer is entitled to exclude from the taxpayer’s income under sections 294 to 298 an amount in respect of the exercise of an option in a subsequent taxation year, to exclude from the taxpayer’s income or to deduct an amount by reason of the disposition in a subsequent taxation year of a work of art referred to in section 714.1 or 752.0.10.11.1 by a donee referred to in either of those sections, to deduct an amount in relation to a subsequent taxation year, or because of an event in a subsequent taxation year, and referred to in any of paragraphs *b*, *b.1* and *c* to *f* of section 1012.1, or to deduct an amount in relation to a preceding taxation year and referred to in any of sections 727 to 737 where the deduction is claimed after the expiration of the time limit provided for in section 1000 applicable to the particular taxation year, the tax payable under this Part by the taxpayer for the taxation year is deemed, for the purpose of computing interest payable under sections 1037 to 1040, to be equal to the tax that the taxpayer would have been required to pay if the consequences of the deduction or exclusion of those amounts were not taken into account.

However, the amount by which the tax payable under this Part by the taxpayer for the particular taxation year is reduced as a consequence of the exclusion from the income or the deduction, as the case may be, by an amount described in the first paragraph is, for the purpose of computing interest payable under sections 1037 to 1040, deemed to have been paid by the taxpayer on account of the taxpayer’s tax payable under this Part for the particular taxation year on the latest of”.

(2) Subsection 1 applies to amounts that became payable after 31 December 1995 except where it inserts, in the first paragraph of section 1044 of the said Act, “, or because of an event in a subsequent taxation year,”, in which case subsection 1 has effect from 1 January 1993.

276. (1) Section 1049 of the said Act is amended

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

“1049. Every person who, knowingly or under circumstances amounting to gross negligence, has made or has participated in or acquiesced in the making of, a false statement or omission in a return, certificate, statement or answer, in this section referred to as a “return”, made or filed in respect of a taxation year for the purposes of this Act, is liable to a penalty equal to the greater of \$100 and 50% of the amount by which

(*a*) the aggregate of

i. the tax for the year that would be payable by the person under this Act if

(1) the person’s taxable income for the year, as reported by the person in the return, were computed by adding that portion of the amount determined in the second paragraph that may reasonably be attributed to the false statement or omission, and



(2) the person's taxable income for the year were computed by subtracting from the deductions from the tax otherwise payable by the person for the year such portion of any such deduction as may reasonably be attributed to the false statement or omission, and

ii. the amount that would be deemed under Divisions I to II.6.11 of Chapter III.1 of Title III to have been paid for the year by the person to the Minister had that amount been determined on the basis of the information provided in the person's return for the year; exceeds

(b) the aggregate of

i. the tax for the year that would have been payable by the person under this Act had it been determined on the basis of the information provided in the person's return for the year, and

ii. the amount that would be deemed under Divisions I to II.6.11 of Chapter III.1 of Title III to have been paid for the year by the person to the Minister had that amount been determined on the basis of the information provided in the person's return for the year but without reference to the false statement or omission.

The amount to which subparagraph 1 of subparagraph i of subparagraph *a* of the first paragraph refers in respect of the person is the aggregate of”;

(2) by striking out the word “et” at the end of the French text of subparagraph *b* of the second paragraph;

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

“(b.1) any amount that may otherwise be deducted under section 965.0.3 in computing the person's income for the year because of the application of section 965.0.4.1 as a consequence of the person's death in the subsequent taxation year, is deemed not to be deductible in computing the person's income for the year;”.

(2) Paragraph 1 of subsection 1, where it replaces the portion of the first paragraph of section 1049 of the said Act before subparagraph *a*, has effect from 21 June 1996.

(3) Paragraph 1 of subsection 1, except where it replaces the portion of the first paragraph of section 1049 of the said Act before subparagraph *a*, and paragraph 2 of that subsection 1 have effect from 1 November 1997. However, subparagraph ii of subparagraph *a* of the first paragraph of section 1049 of the said Act and subparagraph ii of subparagraph *b* of that first paragraph, enacted by paragraph 1 of subsection 1, shall be read with

- (1) “II.6.11” replaced by “II.6.6”, where they apply before 1 January 1998;
- (2) “II.6.11” replaced by “II.6.8”, where they apply after 31 December 1997 but before 1 April 1998;
- (3) “II.6.11” replaced by “II.6.10”, where they apply after 31 March 1998 but before 31 December 1998.
- (4) Paragraph 3 of subsection 1 applies in respect of taxpayers who die after 31 December 1992.

277. (1) Section 1049.0.2 of the said Act is repealed.

- (2) Subsection 1 has effect from 2 December 1994.

278. (1) Section 1053 of the said Act, amended by section 233 of chapter 83 of the statutes of 1999, is again amended, in the portion before paragraph *a*, by inserting, after the words “an amount relating to a subsequent taxation year”, the words “, or because of an event in a subsequent taxation year,”.

- (2) Subsection 1 has effect from 1 January 1993.

279. The French text of the heading of Book X.1 of Part I of the said Act is replaced by the following :

“NUMÉRO D’IDENTIFICATION D’UN ABRI FISCAL”.

280. (1) Section 1079.1 of the said Act is amended

- (1) by replacing, in the portion of the first paragraph before the definition of “promoter”, the words “For the purposes of” by the word “In”;

- (2) by replacing the definition of “tax shelter” in the first paragraph by the following :

““tax shelter” means any property, including any right to income, other than a flow-through share or a prescribed property, in respect of which it may reasonably be considered, having regard to statements or representations made or proposed to be made in connection with the property, that, if a person were to acquire an interest in the property, at the end of a particular taxation year that ends within four years after the day on which the interest is acquired, the amount referred to in the second paragraph would equal or exceed the amount by which the cost to the person of the interest in the property at the end of the particular year would exceed the aggregate of all amounts each of which is the amount of any prescribed benefit that is expected to be received or enjoyed, directly or indirectly, in respect of the interest in the property by the person or another person with whom the person does not deal at arm’s length;”;

(3) by inserting the following definition in the first paragraph in alphabetical order :

““person” includes a partnership;”;

(4) by replacing paragraphs *a* and *b* of the definition of “promoter” in the first paragraph by the following :

“(a) issues or sells, or promotes the issuance, sale or acquisition of, the tax shelter ;

“(b) acts as a mandatary or adviser in respect of the issuance or sale, or the promotion of the issuance, sale or acquisition, of the tax shelter ; or”;

(5) by adding, after paragraph *b* of the definition of “promoter” in the first paragraph, the following paragraph :

“(c) accepts consideration in respect of the tax shelter ;”;

(6) by inserting, after the first paragraph, the following paragraph :

“The amount to which the definition of “tax shelter” in the first paragraph refers is, for the particular taxation year referred to in that definition, the aggregate of all amounts each of which is

(a) an amount, or a loss in the case of a partnership interest, represented to be deductible in computing income in respect of the interest in the property, including, where the property is a right to income, an amount or loss in respect of that right that is represented to be deductible, and expected to be incurred by or allocated to the person for the particular year or any preceding taxation year ; or

(b) any other amount represented to be deductible in computing income or taxable income in respect of the interest in the property and expected to be incurred by or allocated to the person for the particular year or any preceding taxation year, other than any amount included in computing a loss described in subparagraph *a.*”;

(7) by replacing, in the second paragraph, the words “For the purposes of” by the word “In”.

(2) Paragraphs 2, 3 and 6 of subsection 1 have effect from 1 December 1994.

(3) Paragraphs 4 and 5 of subsection 1 have effect from 2 December 1994.

**281.** (1) Sections 1079.4 to 1079.6 of the said Act are replaced by the following :

“1079.4. No person shall issue or sell, or accept consideration in respect of, a tax shelter before the Minister has issued an identification number for the tax shelter.

“1079.5. Every promoter in respect of a tax shelter shall

(a) make reasonable efforts to ensure that all persons who acquire or otherwise invest in the tax shelter are provided with the identification number issued by the Minister for the tax shelter;

(b) prominently display on the upper right-hand corner of any statement of earnings prepared by or on behalf of the promoter in respect of the tax shelter the identification number issued for the tax shelter; and

(c) on every written statement made after 31 December 1995 by the promoter that refers either directly or indirectly and either expressly or implicitly to the issuance by the Minister of an identification number for the tax shelter, as well as on the copies of the portion of the information return to be forwarded pursuant to section 1079.7.3, prominently display

i. the following French text:

“Le numéro d’identification attribué à cet abri fiscal doit figurer dans toute déclaration d’impôt sur le revenu produite par l’investisseur. L’attribution de ce numéro n’est qu’une formalité administrative et ne confirme aucunement le droit de l’investisseur aux avantages fiscaux découlant de cet abri fiscal.”, or

ii. the following French and English texts:

“Le numéro d’identification attribué à cet abri fiscal doit figurer dans toute déclaration d’impôt sur le revenu produite par l’investisseur. L’attribution de ce numéro n’est qu’une formalité administrative et ne confirme aucunement le droit de l’investisseur aux avantages fiscaux découlant de cet abri fiscal.

The identification number issued for this tax shelter shall be included in any income tax return filed by the investor. Issuance of the identification number is for administrative purposes only and does not in any way confirm the entitlement of an investor to claim any tax benefits associated with the tax shelter.”

“1079.6. No amount may be deducted or claimed by a person in respect of a tax shelter unless the person files with the Minister the prescribed form containing prescribed information and, where the person was an individual resident in Québec at the time the person acquired or otherwise invested in the tax shelter, the identification number for the tax shelter, and, in other cases, either that identification number or the identification number issued under subsection 3 of section 237.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) by the Minister of Revenue of Canada for the tax shelter.”

(2) Subsection 1 has effect from 2 December 1994. However, where sections 1079.4 to 1079.6 of the said Act, enacted by subsection 1, apply before 11 May 2000, they shall be read with the word “identification”, wherever it appears in the French text, replaced by the word “inscription”.

282. (1) The said Act is amended by inserting, after section 1079.6, the following section:

“1079.6.1. No amount may be deducted, claimed or deemed to have been paid by any person for any taxation year in respect of a tax shelter of the person where any person is liable to a penalty under section 1049.0.2, as it applied before its repeal, or 1079.7.4 in respect of the tax shelter or interest on the penalty and the penalty or interest has not been paid.”

(2) Subsection 1 has effect from 2 December 1994.

283. (1) Section 1079.7 of the said Act is replaced by the following:

“1079.7. Every promoter in respect of a tax shelter who accepts consideration in respect of the tax shelter from an individual resident in Québec at the time of the acceptance or who acts as a mandator or mandatary in respect of such an acceptance in a calendar year shall, in prescribed form and manner, file an information return for the year, unless such a return in respect of the tax shelter has already been filed in accordance with this section, containing

(a) the name, address and Social Insurance Number of each individual who so acquired or otherwise invested in the tax shelter in the year and who was resident in Québec at the time of the acquisition or investment;

(b) the amount paid in respect of the tax shelter by each individual referred to in paragraph *a*; and

(c) such other information as is required by the prescribed form.”

(2) Subsection 1 has effect from 2 December 1994.

284. (1) The said Act is amended by inserting, after section 1079.7, the following sections:

“1079.7.1. An information return required under section 1079.7 to be filed in respect of the acquisition of a tax shelter in a calendar year or an investment in a tax shelter in the year shall be filed with the Minister on or before the last day of February of the following calendar year.

“1079.7.2. Notwithstanding section 1079.7.1, where a person is required under section 1079.7 to file an information return in respect of a business or activity and the person discontinues that business or activity, the return shall be filed on or before the earlier of

- (a) the day referred to in section 1079.7.1; and
- (b) the day that is 30 days after the day on which the person discontinues the business or activity, as the case may be.

“1079.7.3. Every person required to file an information return under section 1079.7 shall, on or before the day on or before which the return is required to be filed with the Minister, forward to each person to whom the return relates two copies of the portion of the return relating to that person.

“1079.7.4. Every person who files false or misleading information with the Minister in an application under section 1079.2 or issues, sells or accepts consideration in respect of a tax shelter before the Minister has issued an identification number for the tax shelter is liable to a penalty equal to the proportion determined under the second paragraph of the greater of

- (a) \$500; and
- (b) 25% of the aggregate of all amounts each of which is the consideration received or receivable from a person in respect of the tax shelter before the correct information is filed with the Minister or the identification number is issued, as the case may be.

The proportion to which the first paragraph refers is the proportion that the amount of the aggregate of all amounts each of which is a consideration received or receivable from an individual who, before the time referred to in subparagraph *b* of the first paragraph, acquired or otherwise invested in the tax shelter referred to in that subparagraph *b* and who was resident in Québec at the time of the acquisition or investment is of the aggregate of all amounts each of which is a consideration received or receivable from a person who, before the time referred to in that subparagraph *b*, acquired or otherwise invested in the tax shelter.

“1079.7.5. Where a partnership is liable to a penalty under section 1079.7.4, the following provisions apply, with the necessary modifications, with respect to the penalty as if the partnership were a corporation:

- (a) sections 1005 to 1014, 1034 to 1034.0.2, 1035 to 1044.0.2 and 1051 to 1055.1;
- (b) sections 14, 14.4 to 14.6, Division II.1 of Chapter III and Chapters III.1 and III.2 of the Act respecting the Ministère du Revenu (chapter M-31).”

(2) Subsection 1 has effect from 2 December 1994. However, where section 1079.7.4 of the said Act, enacted by subsection 1, applies before 11 May 2000, it shall be read with the word “identification” wherever it appears in the French text replaced by the word “inscription”.

285. (1) The heading of Part III.12 of the said Act is replaced by the following:

“TAX ON ENVIRONMENTAL TRUSTS”.

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

286. (1) Section 1129.51 of the said Act is amended

(1) by inserting the following definitions in alphabetical order:

““balance-due day” has the meaning assigned by section 1;

““filing-due date” has the meaning assigned by section 1;”;

(2) by striking out the definition of “mining reclamation trust”;

(3) by inserting the following definition in alphabetical order:

““environmental trust” has the meaning assigned by section 21.40;”.

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

287. (1) Section 1129.52 of the said Act is replaced by the following:

“1129.52. Every trust that, at the end of a taxation year, is an environmental trust resident in Québec shall pay a tax for the year equal to 16.25% of its income under Part I for the year.

For the purposes of the first paragraph, the income under Part I of an environmental trust shall be computed as if this Act were read without reference to sections 652, 653 to 657.4, 659 to 668.3, 669.1 to 671.4, 678 to 682, 684 to 689, 690.0.1 and 691 to 692.”

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

288. (1) Section 1129.53 of the said Act is amended

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

“1129.53. Every trust that, at the end of a taxation year, is an environmental trust resident in Québec shall

(*a*) file with the Minister, on or before its filing-due date for the year, a return under this Part for the year in prescribed form, without notice or demand therefor;”;

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

“(c) pay to the Minister the amount of its tax payable under this Part for the year on or before its balance-due day for the year.”

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

289. (1) Section 1129.55 of the said Act is amended by replacing the definition of “scientific research and experimental development” by the following :

““scientific research and experimental development” has the meaning assigned by subsections 2 to 4 of section 222.”

(2) Subsection 1 applies in respect of university research contracts entered into after 9 May 1996.

290. (1) The said Act is amended by inserting, after section 1129.62, the following :

### **“PART III.15**

#### **“SPECIAL TAX IN RESPECT OF REGISTERED EDUCATION SAVINGS PLANS**

“1129.63. In this Part,

“accumulated income payment” has the meaning assigned by section 890.15 ;

“filing-due date” has the meaning assigned by section 1 ;

“individual” has the meaning assigned by section 1 ;

“Minister” means the Minister of Revenue ;

“person” has the meaning assigned by section 1 ;

“registered education savings plan” means a plan that is a registered education savings plan for the purposes of Part I ;

“subscriber” has the meaning that would be assigned by sections 890.15 and 890.17, if the definition of that expression in section 890.15 were read without reference to subparagraph iii of paragraph *b* thereof ;

“taxation year” has the meaning assigned by Part I.

“1129.64. Every person shall pay a tax under this Part, for a taxation year, equal to the amount determined by the formula

$0.08(A + B - C)$ .



In the formula provided for in the first paragraph,

(a) A is the aggregate of all amounts each of which is an accumulated income payment made at any time that is required to be included in computing the person's income under Part I for the year and that is

i. under a registered education savings plan under which the person is a subscriber at that time, or

ii. under a registered education savings plan under which there is no subscriber at that time, where the person has been a spouse of an individual who was a subscriber under the plan;

(b) B is the aggregate of all amounts each of which is an accumulated income payment that is required to be included in computing the person's income under Part I for the year but is not included in the value of A in respect of the person for the year; and

(c) C is the lesser of

i. the lesser of the value determined under subparagraph *a* in respect of the person for the year and the aggregate of all amounts each of which is an amount deducted by the person under paragraph *b* of section 339, where that paragraph refers to sections 922 and 923, in computing the person's income under Part I for the year, and

ii. the amount by which \$40,000 exceeds the aggregate of all amounts each of which is an amount determined under subparagraph *i* in respect of the person for a preceding taxation year.

“1129.65. Every person who is liable to pay tax under this Part for a taxation year shall, on or before the person's filing-due date for the year,

(a) file with the Minister a return for the year under this Part in prescribed form and containing prescribed information, without notice or demand therefor;

(b) estimate in the return the amount of tax payable under this Part by the person for the year; and

(c) pay to the Minister the amount of tax payable under this Part by the person for the year.

“1129.66. Except where inconsistent with this Part, sections 1001 to 1014, 1025 to 1026.2 and 1031 to 1079.16 apply to this Part, with the necessary modifications.”

(2) Subsection 1 applies from the taxation year 1998.

291. (1) Section 1143 of the said Act, amended by section 268 of chapter 83 of the statutes of 1999, is again amended by replacing subparagraph *a* of the first paragraph by the following:

“(a) a corporation, other than a prescribed corporation, that is exempt from tax under sections 980 to 996 or 998 and 998.1; or”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1998.

292. (1) Section 1159.1 of the said Act is amended by inserting the following definition in alphabetical order:

““legal representative” has the meaning assigned by section 1;”.

(2) Subsection 1 has effect from 18 June 1998.

293. (1) The said Act, amended by chapters 36, 65, 83 and 86 of the statutes of 1999, is again amended

(1) by replacing the words “an heir” or “heir” by the words “a legatee by particular title” or “legatee by particular title”, as the case may be, wherever they appear in the following provisions:

— section 47.2;

— section 47.4;

— paragraph *a* of section 47.5;

— subparagraph *a* of the second paragraph of section 317;

(2) by replacing “217.16” by “217.17” in the following provisions:

— subsection 1 of section 86;

— subparagraph *b* of the first paragraph of section 175.5;

— section 608;

(3) by replacing the words “Minister of National Revenue” by the words “Minister of Revenue of Canada” wherever they appear in the following provisions:

— subparagraph *f* of the first paragraph of section 93.7;

— the second paragraph of section 230.0.0.3.5;

— section 395.1;

- subparagraph *a* of the second paragraph of section 442;
- subparagraph *a* of the sixth paragraph of section 444;
- subparagraph *a* of the sixth paragraph of section 450;
- subparagraph *a* of the first paragraph of section 455.0.1;
- the first paragraph of section 520.1;
- the second paragraph of section 771.1.4.1;
- the second paragraph of section 785.4;
- the fourth paragraph of section 832.3;
- the second paragraph of section 832.9;
- section 854;
- the definition of “deferred profit sharing plan” in section 870;
- section 890.0.3;
- paragraph *e* of section 965.0.12;
- section 965.0.16;

(4) by replacing the words “Minister of National Revenue” by the words “Minister of Revenue of Canada” in the English text of the following provisions:

- the second paragraph of section 165.4.1;
- the first paragraph of section 659.1;
- subparagraph *a* of the second paragraph of section 659.1;

(5) by replacing the words “a mining reclamation trust” and “MINING RECLAMATION TRUSTS” respectively by the words “an environmental trust” and “ENVIRONMENTAL TRUSTS” in the following provisions:

- subparagraph *f* of the first paragraph of section 232;
- the heading of Chapter IX of Title XII of Book III of Part I;
- the portion of section 692.2 before paragraph *a*;
- the portion of section 692.3 before paragraph *a*;

- paragraph *c* of section 692.3;
  - section 692.4;
  - the heading of Title III.2 of Book V of Part I;
- (6) by replacing “217.9” by “217.9.1” in the following provisions :
- paragraph *b* of section 257.3;
  - paragraph *d* of section 600;
- (7) by replacing “section 485.13 or 485.17” by “section 485.13” in the following provisions :
- subparagraph ii of subparagraph *b* of the third paragraph of section 418.16;
  - subparagraph iii of subparagraph *b* of the third paragraph of section 418.17;
  - subparagraph ii of subparagraph *b* of the third paragraph of section 418.18;
  - subparagraph ii of subparagraph *b* of the third paragraph of section 418.19;
  - subparagraph *c* of the second paragraph of section 418.20;
  - subparagraph ii of subparagraph *b* of the third paragraph of section 418.21;
- (8) by striking out “, within the meaning of section 359.1,” in the following provisions :
- subparagraph *b* of the first paragraph of section 726.4.17.11;
  - the portion of the first paragraph of section 726.4.17.13 before the formula;
- (9) by replacing the word “responsables” by the word “représentants” wherever it appears in the French text of the following provisions :
- subparagraph *a* of the first paragraph of section 985.1.1;
  - subparagraph *c* of the first paragraph of section 985.1.2;
- (10) by replacing the words “numéro d’inscription” by the words “numéro d’identification” wherever they appear in the French text of the following provisions :
- section 1079.2;
  - section 1079.3;

— section 1079.8.

(2) Paragraph 1 of subsection 1 has effect from 18 June 1998.

(3) Paragraphs 2 and 6 of subsection 1 have effect from 1 January 1996.

(4) Paragraph 5 of subsection 1 applies to taxation years that end after 18 February 1997.

(5) Paragraph 7 of subsection 1 applies to taxation years that end after 21 February 1994.

(6) Paragraph 8 of subsection 1 has effect from 1 December 1994.

#### ACT RESPECTING THE MINISTÈRE DU REVENU

294. Section 42 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is replaced by the following :

“42. Every book, register or other document which has been the subject of an examination or of which a public servant has taken possession or which has been filed with the Minister may be copied, photographed or printed out, and any copy, photostat or print-out of such book, register or document, certified by the Minister or any person authorized by the Minister to do so, as being a copy, photostat or print-out of the original, shall be allowed as evidence.”

295. Section 62 of the said Act, amended by section 36 of chapter 65 of the statutes of 1999, is again amended, in the first paragraph,

(1) by replacing, in the English text, the portion before subparagraph *a* and subparagraph *a* by the following :

“62. A person is guilty of an offence and, in addition to any penalty otherwise provided, is liable to a fine of not less than \$1,000 and not more than \$25,000 or, notwithstanding article 231 of the Code of Penal Procedure (chapter C-25.1), to both the fine herein described and imprisonment for a term not exceeding two years, if the person

(*a*) makes, or participates in, assents to or acquiesces in the making of, false or deceptive statements in a return, report, certificate, statement, answer, application for a refund or other document filed or made as required under a fiscal law or a regulation made under such a law ;” ;

(2) by striking out subparagraph *e* ;

(3) by replacing subparagraph *f* by the following :

“(f) in any manner, knowing that the person or another person is not entitled thereto, obtains or attempts to obtain a refund or credit under a fiscal law ; or” ;

(4) by striking out the portion after subparagraph *f*;

(5) by adding, after subparagraph *f*, the following subparagraph :

“(g) conspires with any person to commit an offence described in subparagraph *a, d* or *f*.”

296. Section 63 of the said Act, amended by section 38 of chapter 65 of the statutes of 1999, is again amended by inserting, in the third paragraph, after the word “refund”, the words “or credit”.

297. Section 82 of the said Act is amended by replacing, after the word “affidavit”, the words “is a document or true copy of a document” by the words “is a document or true copy of a document, or a print-out”.

298. (1) The said Act is amended by inserting, after section 93.1.1, the following section :

“93.1.1.1. Notwithstanding section 93.1.1, where the Minister makes a determination under section 1007.1 of the Taxation Act (chapter I-3) in respect of a fiscal period of a partnership, an objection in respect of the determination may be made only by one member of the partnership, and that member must be either

(a) designated for that purpose in the information return filed under section 1086R23.1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1) for the fiscal period; or

(b) otherwise expressly authorized by the partnership to so act.”

(2) Subsection 1 applies in respect of determinations made after 11 May 2000.

299. (1) Section 93.1.8 of the said Act is amended

(1) by inserting, after the first paragraph, the following paragraph :

“Notwithstanding section 93.1.1, no person may notify a notice of objection to a reassessment or determination under section 1007.5 of the Taxation Act, except where the reasons for the objection relate to any matter or conclusion specified in any of paragraphs *a* to *c* of that section.” ;

(2) by replacing the second paragraph by the following :

“However, the first and second paragraphs do not apply where, at the time the notice of reassessment or determination is issued, an objection or appeal was made to an earlier assessment or determination or where the person’s time for notifying a notice of objection or for filing an appeal in respect of an earlier assessment or determination had not expired.”

(2) Subsection 1 applies in respect of determinations made after 11 May 2000.

300. (1) Section 93.1.12 of the said Act is amended

(1) by inserting, after the first paragraph, the following paragraph :

“Notwithstanding section 93.1.10, no person may appeal from a reassessment or determination under section 1007.5 of the Taxation Act, except where the reasons for the appeal relate to any matter or conclusion specified in any of paragraphs *a* to *c* of that section.”;

(2) by replacing the second paragraph by the following :

“However, the first and second paragraphs do not apply where the third paragraph of section 93.1.8 is applicable.”

(2) Subsection 1 applies in respect of determinations made after 11 May 2000.

301. (1) Section 93.1.15 of the said Act is amended, in the first paragraph,

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

“(c) refusing registration of a home ownership savings plan or revoking the registration of any such plan;”;

(2) by adding, after subparagraph *c*, the following subparagraphs :

“(d) refusing registration, for the purposes of Part I of that Act, of an education savings plan; or

“(e) sending notice under section 898.1 of that Act to the promoter of an education savings plan that the Minister proposes to revoke the registration of the plan.”

(2) Subsection 1 has effect from 1 January 1998.

302. (1) The said Act, amended by chapters 53, 65, 77 and 83 of the statutes of 1999, is again amended by replacing, in sections 59.3 and 59.5, the words “made or filed under a fiscal law” by the words “made or filed for the purposes of a fiscal law”.

(2) Subsection 1 has effect from 20 June 1996.

ACT TO AMEND THE TAXATION ACT, THE ACT RESPECTING  
THE QUÉBEC SALES TAX AND OTHER LEGISLATIVE PROVISIONS

303. (1) Section 39 of the Act to amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions (1995, chapter 1) is amended by replacing subparagraph ii of paragraph *d* of section 351 of the Taxation Act (R.S.Q., chapter I-3), enacted by paragraph *a* of subsection 2 of that section 39, by the following:

“ii. the amount by which all amounts included in computing his income or that would be included, but for paragraphs *e*, *k*, *w* and *y* of section 488R1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1), under sections 34 to 58.3, paragraph *e.2* of section 311 and paragraph *e*, *g* or *h* of section 312, exceed the amount deducted in computing his income or that would be deducted, but for paragraphs *e* and *k* of the said section 488R1, under section 78.6;”.

(2) Subsection 1 has effect from 30 January 1995.

ACT TO AMEND THE TAXATION ACT AND OTHER LEGISLATIVE  
PROVISIONS OF A FISCAL NATURE

304. (1) Section 32 of the Act to amend the Taxation Act and other legislative provisions of a fiscal nature (1997, chapter 31) is amended by replacing subsection 2 by the following:

“(2) Subsection 1 has effect from 22 February 1994 in respect of expenditures made at any time. However, where section 230.0.0.4 of the said Act, enacted by subsection 1, applies to taxation years that begin before 1 January 1996, it shall be read with “in section 230.0.0.4.1” replaced by “in subsection 1 of section 222”.

(2) Subsection 1 has effect from 12 June 1997.

ACT TO AGAIN AMEND THE TAXATION ACT, THE ACT  
RESPECTING THE QUÉBEC SALES TAX AND OTHER LEGISLATIVE  
PROVISIONS

305. (1) Section 59 of the Act to again amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions (1997, chapter 85) is amended by replacing subsection 2 by the following:

“(2) Subsection 1 applies from the taxation year 1997. In addition, where subparagraph *a* of the second paragraph of section 309.1 of the said Act, repealed by subsection 1, applies to the taxation year 1996, it shall be read as follows:



“(a) a benefit under the Labour Adjustment Benefits Act (Revised Statutes of Canada, 1985, chapter L-1), the Unemployment Insurance Act (Revised Statutes of Canada, 1985, chapter U-1) or the Employment Insurance Act (Statutes of Canada, 1996, chapter 23) or under the Act respecting the Québec Pension Plan (chapter R-9) or a similar plan within the meaning of the said Act;”.

(2) Subsection 1 has effect from 19 December 1997.

306. (1) Section 66 of the said Act is amended by replacing subsection 2 by the following :

“(2) Subsection 1 applies from the taxation year 1997. In addition, where the second paragraph of section 338 of the said Act, repealed by subsection 1, applies to the taxation years 1994 to 1996, it shall be read as follows :

“In order that fees paid to an educational institution referred to in paragraph *a* of section 337, which are fees in respect of which the individual is or was entitled to receive a reimbursement or any form of assistance under a program of Her Majesty in right of Canada or a province designed to facilitate the entry or re-entry of workers into the labour force or fees paid on the individual’s behalf, or in respect of which the individual is or was entitled to receive a reimbursement, under a program of Her Majesty in right of Canada designed to assist athletes, be deductible in computing an individual’s income under section 337, the amount of the payment, reimbursement or assistance, as the case may be, must be included in computing the individual’s income.”

(2) Subsection 1 has effect from 19 December 1997.

307. (1) Subsection 1 of sections 31, 32, 37, 45 and 62 to 65, paragraphs 1, 2 and 4 of subsection 1 of section 68 and subsection 1 of sections 118, 119, 122, 133, 136 and 137 do not apply in respect of a disposition of property by a person or partnership, in subsections 2 and 3 referred to as the “transferor”, that occurred before 1 January 1996,

(1) to a person who was obliged on 26 April 1995 to acquire the property pursuant to the terms of an agreement in writing entered into on or before that day ; or

(2) as part of a transaction or series of transactions, the arrangements for which, evidenced in writing, were substantially advanced before 27 April 1995, other than a transaction or series of transactions a main purpose of which may be reasonably be considered to have been to enable an unrelated person to obtain, for the purposes of Part I of the Taxation Act (R.S.Q., chapter I-3), the benefit of any deduction in computing the unrelated person’s income, taxable income, taxable income earned in Canada or tax payable under that Part I or any balance of undeducted outlays, expenses or other amounts.

(2) Notwithstanding subsection 1, the provisions of this Act referred to in that subsection apply in respect of a disposition in respect of which the transferor has filed with the Minister of Revenue on or before 31 August 2000 an election in writing to have those provisions apply.

(3) For the purposes of subsection 1,

(1) a person shall be considered not to be obliged to acquire property where the person may be excused from the obligation if there is a change to the Taxation Act or if there is an adverse assessment under that Act;

(2) an “unrelated person” means any person who was not, or a partnership any member of which was not, related, otherwise than because of paragraph *b* of section 20 of the Taxation Act, to the transferor at the time of the disposition; and

(3) a person is deemed to be related to a partnership of which that person is a majority interest partner.

308. This Act comes into force on 11 May 2000.

## Regulations and other acts

Gouvernement du Québec

### O.C. 623-2000, 24 May 2000

Parks Act  
(R.S.Q., c. P-9)

#### **Parc de conservation des Hautes-Gorges-de-la-Rivière-Malbaie — Establishment**

Regulation respecting the establishment of the Parc de conservation des Hautes-Gorges-de-la-Rivière-Malbaie

WHEREAS under section 2 of the Parks Act (R.S.Q., c. P-9) the Government, by regulation, may set aside any part of the lands in the domain of the State that it may indicate, as a park for the exclusive purposes of conservation or outdoor recreation;

WHEREAS under section 3 of the Act, at its establishment under section 2, every park shall be classified as a conservation park or a recreation park according to its primary intention;

WHEREAS under section 4 of the Act, the Government may establish or abolish, or change the boundaries or classification of, a park, if the Minister has previously:

(a) given notice of his intention to establish or abolish or to change the boundaries or classification of the park in the *Gazette officielle du Québec* and in one or two newspapers published in the region concerned, or, if no newspaper is published in that region, in one or two newspapers published in the closest neighbouring region;

(b) granted sixty days' delay from the publication of such notice to enable interested persons to submit their objections to him in writing;

(c) received in a public hearing the persons contemplated in paragraph *b*;

WHEREAS in accordance with the requirement set out in section 4 of the Act, a minister's order creating the Parc de conservation des Hautes-Gorges-de-la-Rivière-Malbaie was published in the newspaper *Le Soleil* and in the *Gazette officielle du Québec* on 27 March 1999 and public hearings were held on 18 and 19 June 1999;

IT IS ORDERED, therefore, on the recommendation of the Minister responsible for Wildlife and Parks:

THAT the Regulation respecting the establishment of the Parc de conservation des Hautes-Gorges-de-la-Rivière-Malbaie, attached to this Order in Council, be made.

MICHEL NOËL DE TILLY,  
*Clerk of the Conseil exécutif*

### **Regulation respecting the establishment of the Parc de conservation des Hautes-Gorges-de-la-Rivière-Malbaie**

Parks Act  
(R.S.Q., c. P-9, ss. 2, 3 and 4)

1. The territory described in the Schedule attached hereto constitutes the Parc de conservation des Hautes-Gorges-de-la-Rivière-Malbaie.

2. The park is classified as a conservation park.

3. This Regulation comes into force on the date of coming into force of the Décret concernant la modification des limites de la Réserve écologique des Grands-Ormes.

#### **SCHEDULE**

PROVINCE DE QUÉBEC  
SOCIÉTÉ DE LA FAUNE ET DES PARCS DU QUÉBEC  
CHARLEVOIX NO. 1, CHARLEVOIX NO. 2 AND CHICOUTIMI REGISTRATION DIVISIONS

#### **TECHNICAL DESCRIPTION**

##### **Parc de conservation des Hautes-Gorges-de-la-Rivière-Malbaie**

##### **Foreword**

In this technical description, it is understood that when a person follows a watercourse or skirts a lake, it is always done, unless indicated otherwise, along the outer limit of the shore, that is, the normal high-water mark.

**Minute 9769**

A territory located on the territory of the regional county municipalities of Charlevoix, Charlevoix-Est and Le Fjord-du-Saguenay, that is part of the original survey of the townships of Lacoste and Lalemant, as well as the undivided part of Bassin-de-la-Rivière-Malbaie, covering an area of 224.7 square kilometres and whose perimeter may be described as follows:

Starting from Point 1 located on the northwestern limit of the right-of-way of the power transmission line (7004), a point whose coordinates are:

1. 5 300 154 m N and 308 968 m E;

Thence, in a general northeasterly direction, following the limit of the said right-of-way to Point 2 whose coordinates are:

2. 5 306 284 m N and 313 849 m E;

Thence, in general northeasterly, westerly and northerly directions, following a broken line whose apex coordinates are:

3. 5 310 779 m N and 315 764 m E;
4. 5 312 006 m N and 315 705 m E;
5. 5 312 079 m N and 315 205 m E;
6. 5 311 947 m N and 313 557 m E;
7. 5 311 733 m N and 312 861 m E;
8. 5 311 774 m N and 312 360 m E;
9. 5 312 022 m N and 312 255 m E;
10. 5 312 252 m N and 311 250 m E;
11. 5 312 988 m N and 310 485 m E;
12. 5 313 020 m N and 309 584 m E;
13. 5 314 155 m N and 309 037 m E;

The latter point is located 60 metres west of the bank of a stream;

Thence, northerly, following a line parallel to and 60 m from the bank of the said stream, so as to exclude it up to the shore of Lac Antlie;

Thence, in a general westerly direction, following a broken line whose apex coordinates are:

14. 5 316 585 m N and 308 604 m E;
15. 5 316 170 m N and 308 441 m E;
16. 5 315 443 m N and 308 415 m E;
17. 5 315 443 m N and 307 647 m E;
18. 5 315 795 m N and 307 440 m E;
19. 5 315 943 m N and 306 849 m E;
20. 5 315 913 m N and 306 502 m E;
21. 5 316 101 m N and 306 206 m E;

22. 5 316 549 m N and 306 230 m E;
23. 5 317 129 m N and 305 732 m E;
24. 5 317 182 m N and 305 311 m E;
25. 5 317 271 m N and 304 616 m E;
26. 5 317 043 m N and 304 338 m E;
27. 5 317 112 m N and 303 886 m E;
28. 5 317 105 m N and 303 671 m E;
29. 5 316 992 m N and 303 441 m E;
30. 5 317 129 m N and 302 882 m E;
31. 5 317 010 m N and 302 460 m E;
32. 5 316 505 m N and 302 368 m E;
33. 5 315 919 m N and 302 010 m E;
34. 5 315 383 m N and 301 593 m E;
35. 5 314 981 m N and 301 010 m E;
36. 5 314 963 m N and 300 673 m E;
37. 5 315 008 m N and 300 092 m E;
38. 5 315 627 m N and 299 803 m E;
39. 5 315 798 m N and 299 265 m E;
40. 5 316 316 m N and 297 650 m E;
41. 5 316 924 m N and 296 274 m E;
42. 5 317 384 m N and 295 147 m E;
43. 5 317 502 m N and 294 796 m E;

that point is located on the southern limit of Canton de Lalemant;

Thence, westerly, following the southern limit of the said township up to its encounter with the left bank of Rivière Malbaie;

Thence, northwesterly, westerly and southwesterly, following the left bank of the said river so as to include it, up to Point 44 whose coordinates are:

44. 5 317 607 m N and 291 625 m E;

Thence, southeasterly, following a straight line to Point 45 located at the intersection of the right bank of Rivière Malbaie and the left bank of an intermittent stream, a point whose coordinates are:

45. 5 317 584 m N and 291 641 m E;

Thence, southeasterly, following the said intermittent stream so as to include it up to Point 46 whose coordinates are:

46. 5 316 957 m N and 291 933 m E;

Thence, northeasterly, following a straight line to Point 47 located on the northwestern limit of the right-of-way of a road leading to Lac Desprez, a point whose coordinates are:

47. 5 317 331 m N and 292 577 m E;

Thence, northeasterly, following the right-of-way of the said road so as to exclude it up to Point 48 whose coordinates are:

48. 5 317 944 m N and 293 056 m E;

Thence, in a general southeasterly direction, following a broken line whose apex coordinates are:

- 49. 5 317 508 m N and 293 442 m E;
- 50. 5 317 011 m N and 293 626 m E;
- 51. 5 315 803 m N and 295 776 m E;
- 52. 5 315 239 m N and 295 776 m E;
- 53. 5 314 250 m N and 296 101 m E;
- 54. 5 314 077 m N and 296 710 m E;
- 55. 5 313 702 m N and 297 339 m E;
- 56. 5 313 422 m N and 297 124 m E;
- 57. 5 313 006 m N and 297 178 m E;
- 58. 5 312 348 m N and 296 604 m E;
- 59. 5 311 804 m N and 295 903 m E;
- 60. 5 310 997 m N and 295 569 m E;
- 61. 5 310 049 m N and 295 687 m E;
- 62. 5 309 402 m N and 296 137 m E;
- 63. 5 308 946 m N and 296 314 m E;
- 64. 5 307 956 m N and 296 405 m E;
- 65. 5 307 486 m N and 296 520 m E;
- 66. 5 306 599 m N and 297 143 m E;
- 67. 5 305 542 m N and 297 115 m E;
- 68. 5 305 273 m N and 297 867 m E;
- 69. 5 304 615 m N and 299 090 m E;
- 70. 5 304 522 m N and 300 184 m E;
- 71. 5 303 887 m N and 301 113 m E;
- 72. 5 303 051 m N and 301 025 m E;

Thence, in a general southeasterly direction, skirting the lakes encountered so as to exclude them, following a broken line whose apex coordinates are:

- 73. 5 302 033 m N and 302 715 m E;
- 74. 5 300 885 m N and 303 878 m E;
- 75. 5 300 705 m N and 306 452 m E;
- 76. 5 300 121 m N and 307 284 m E;

Thence, easterly, following a straight line to the starting point.

#### **To be withdrawn from that territory:**

In the southeast part of the said territory, the roadbed of a newly laid road, the right-of-way having a width of 20 metres from the northwestern limit of the right-of-way of the power transmission line (7004) to 50 metres north of the bridge crossing Rivière Malbaie, including the roadbed of the bridge;

In the northwestern part of the said territory, the roadbed of the road joining Lac Moreau to Lac Desprez on a right-of-way with a width of 20 metres, including the roadbed of the bridge crossing Rivière Malbaie;

The parcels of land having been the subject of a lease respecting occupation for personal resort purposes or for various purposes. Those leases, issued by the Ministère des Ressources naturelles, bear the following numbers:

120467, 120552, 120553, 121036, 122428, 122577, 123385, 123386, 123387, 123897, 125745, 125746, 125747, 125748, 125750, 125753, 126018, 126072, 126248, 126328, 126642, 126917, 127120, 127407, 300772, 300861, 300873, 301013, 303059, 303077.

The territory of the Réserve écologique des Grands-Ormes is described as follows by Claude Vincent, land surveyor, under number 3068 of his minutes:

A territory made up of two parcels of land of irregular shape, located in an undivided part of Bassin-de-la-Rivière-Malbaie on the territory of Muncipalité régionale de comté de Charlevoix-Est, in the administrative region of the Capitale-Nationale;

The perimeter of the territory whose geographic centre is located at approximately 47°53'00" north latitude and 70°27'00" west longitude may be explicitly described as follows, namely:

#### **Parcel 1**

Starting from Point A, located at the intersection of the normal high-water mark of Lac du Pic Chevelu and of the left bank of its tributary of the northern side of the said lake, the approximate SCOPQ coordinates of the said Point A being 5 304 439 metres north and 307 381 metres east;

Thence, following a straight line at a bearing of 00°00'00" along a distance of 501 metres, that is, up to Point B;

Thence, following a straight line at a bearing of 17°00'00" along a distance of 358 metres, that is, up to Point C;

Thence, following the sinuous line forming the southern limit of a hiking trail 30 metres in width, in a general easterly direction, along a distance of 1 061 metres, that is, up to Point D;

Thence, following a straight line at a bearing of 45°00'00" along a distance of 11 metres, that is, up to Point E;

Thence, following a sinuous line in a general south-easterly direction following a line parallel to 3 metres from the western limit of the hiking trail, along a distance of 2 149 metres up to Point F;

Thence, following a straight line at a bearing of 121°00'00" along a distance of 90 metres, that is, up to Point G;

Thence, following a straight line at a bearing of 92°00'00" along a distance of 284 metres, that is, up to Point H;

Thence, following a straight line at a bearing of 139°00'00" along a distance of 753 metres, that is, up to Point J;

Thence, following a straight line at a bearing of 250°00'00" along a distance of 364 metres, that is, up to Point K;

Thence, following a straight line at a bearing of 340°00'00" along a distance of 30 metres, that is, up to Point L;

Thence, following a straight line at a bearing of 243°00'00" along a distance of 3 metres, that is, up to Point M;

Thence, following a straight line at a bearing of 160°00'00" along a distance of 30 metres, that is, up to Point N;

Thence, following a straight line at a bearing of 250°00'00" along a distance of 1 346 metres, that is, up to Point P;

Thence, following a straight line at a bearing of 320°00'00" along a distance of 1 729 metres, that is, up to Point Q;

Thence, following a straight line at a bearing of 00°00'00" along a distance of 700 metres, that is, up to Point R;

Thence, following the high-water mark of Lac Du Pic Chevelu, in a general northerly direction by skirting it on the western side along a distance of 294 metres up to Point A, the starting point.

The parcel described above covers an area of 374 hectares.

## Parcel 2

Starting from Point S which is located at a distance of 52 metres at a bearing of 324°00'00" from Point C previously described;

Thence, following a straight line at a bearing of 17°00'00" along a distance of 295 metres, that is, up to Point T;

Thence, following a straight line at a bearing of 33°00'00" along a distance of 597 metres, that is, up to Point U;

Thence, following a straight line at a bearing of 14°00'00" along a distance of 115 metres, that is, up to Point V;

Thence, following a straight line at a bearing of 347°00'00" along a distance of 703 metres, that is, up to Point W;

Thence, following a straight line at a bearing of 20°00'00" along a distance of 388 metres, that is, up to Point X;

Thence, following a straight line at a bearing of 62°00'00" along a distance of 174 metres, that is, up to Point Y;

Thence, following a straight line at a bearing of 345°00'00" along a distance of 52 metres, that is, up to Point Z;

Thence, following a sinuous line the length of the 650 metre elevation line in a general easterly direction along a distance of 1 208 metres up to Point AA;

Thence, following a straight line at a bearing of 182°00'00" along a distance of 292 metres, that is, up to Point BB;

Thence, following the normal high-water mark of Lac du Chénopode in a general southerly direction skirting the lake on the eastern side along a distance of 38 metres up to Point CC;

Thence, following a sinuous line, the length of the 700 metre elevation line, in general southeasterly and westerly directions along a distance of 4 174 metres up to Point DD;

Thence, following a sinuous line north of the outlet of Lac du Pipit in a general northwesterly direction along a distance of 758 metres up to Point EE;

Thence, following the normal high-water mark of Lac du Pipit in general northerly and westerly directions skirting the lake on the northern side along a distance of 395 metres up to Point FF;

Thence, following a straight line at a bearing of 269°00'00" along a distance of 691 metres, that is, up to Point GG;

Thence, following a sinuous line forming the northern limit of a hiking trail 30 metres in width in a general westerly direction along a distance of 1 098 metres up to Point S, the starting point.

The parcel described above covers an area of 546 hectares.

The territory described above covers an area of approximately 920 hectares and is shown on the map attached to minute 3068 of Claude Vincent, land surveyor, to a scale of 1:20 000, drawn up on an extract of the topographical map produced in 1983 by the Ministère des Ressources naturelles du Québec.

Folios: 21M 16-200-0101 21M 16-200-0201

The elevations mentioned in the technical description of the ecological reserve refer to the mean sea level.

The coordinates mentioned in the document are expressed in metres and were graphically plotted in the digital files of the Base de données topographiques du Québec (BDTQ) produced by the Ministère des Ressources naturelles du Québec. They refer to the Système de coordonnées planes du Québec (SCOPQ), modified transverse Mercator projection system, Zone 7, NAD 83.

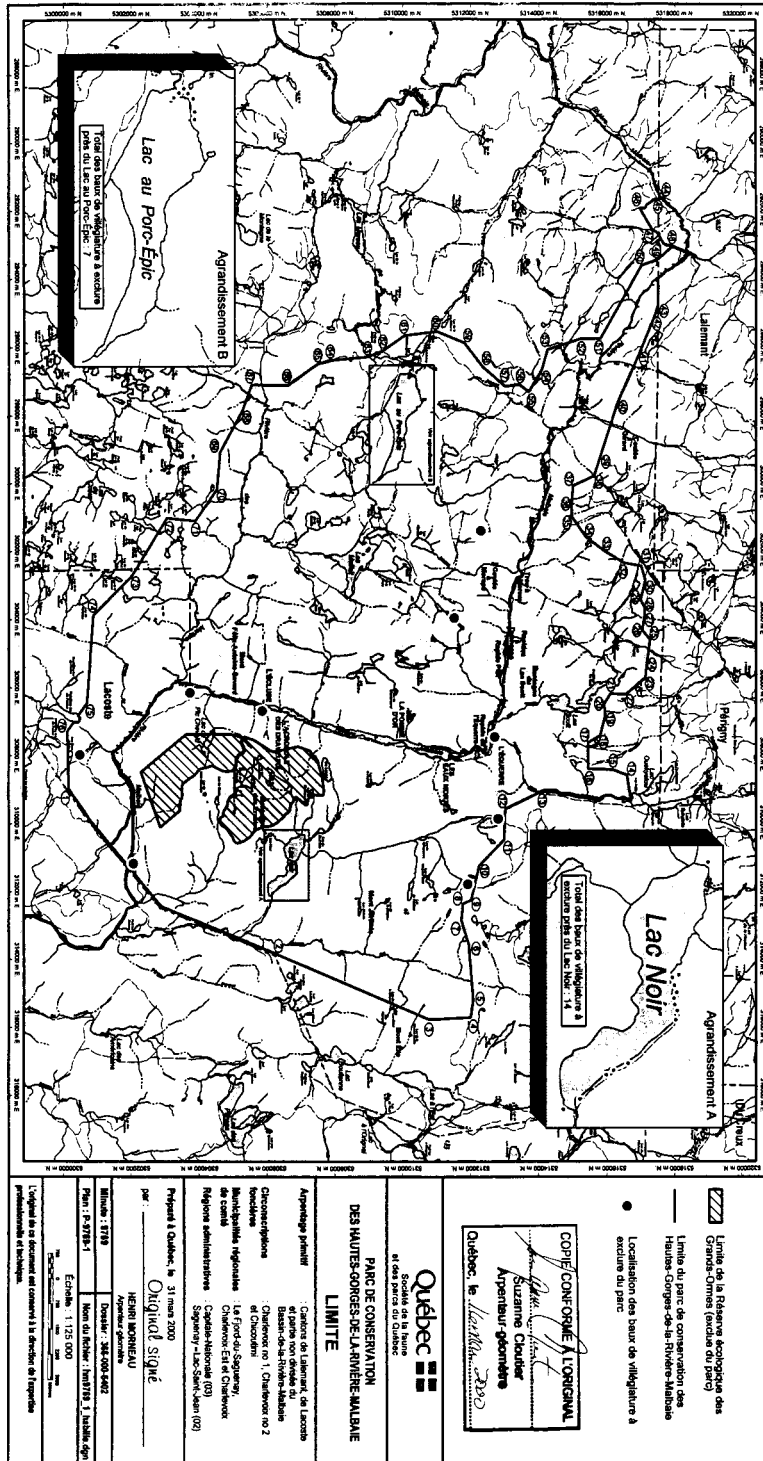
The whole as shown on map P-9769 to scale 1:30 000. A reduced version of that map to scale 1:125 000 (P-9769-1) is attached hereto for information purposes.

The original of those documents is kept at the Direction de l'expertise professionnelle et technique de la Société de la faune et des parcs du Québec.

Prepared in Québec, on 31 March 2000, under number 9769 of my minutes.

By: HENRI MORNEAU,  
*Land surveyor*

Cartographic folios:	22D02-200-0102,	21M15-200-0102
	21M15-200-0202,	21M16-200-0101
	21M16-200-0201	



**COPIE/CONFORME À L'ORIGINAL**  
*Suzanne Cloutier*  
 Agente principale  
 Québec, le 31 mai 2000

**Québec**  
 Gouvernement du Québec  
 et des parcs du Québec

**PARC DE CONSERVATION  
 DES HAUTES-GOUGES-DE-LA-RIVIÈRE-MALBAIE**  
**LIMITÉ**

Agence provinciale : Centre de La Rivière, de Lacoste  
 Descriptions : Chaudière no 1, Chaudière no 2  
 Unités : et Chaudière  
 Municipalités régionales : Le Fort-de-Ségouin,  
 de comté : Chaudière-Étichon  
 Agences administratives : Capitale-Nationale (03)  
 Sagouin - Lac-Saint-Jean (02)

Préparé à Québec, le 31 mai 2000  
 par : **HEURIC MARCHÉAU**  
 Directeur - 365-205-4402  
 Parc # 2733-1 Parc du Québec - 7818733, 1, Québec, G1P  
 Échelle : 1:250 000  
 Plan : P-2733-1

L'original de ce document est conservé à la Direction de l'Écologie  
 et des parcs du Québec.

Limite de la Réserve écologique des  
 Gouges-Sentes (Gouges du parc)  
 — Limite du parc de conservation des  
 Hautes-Gouges-de-la-Rivière-Malbaie  
 • Localisation des lieux de villégiature à  
 exclure du parc



Gouvernement du Québec

**O.C. 624-2000, 24 May 2000**

Parks Act  
(R.S.Q., c. P-9)

**Parks**  
— **Amendments**

Regulation to amend the Parks Regulation

WHEREAS under paragraph *b* of section 9 of the Parks Act (R.S.Q., c. P-9), the Government may make regulations, in respect of a park, to divide it into different zones;

WHEREAS the Parks Regulation was made under the Act by Order in Council 567-83 dated 23 March 1983;

WHEREAS it is expedient to amend the Regulation by adding in Schedule 20 the zoning map of Parc de conservation des Hautes-Gorges-de-la-Rivière-Malbaie;

WHEREAS in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1) the draft Regulation to amend the Parks Regulation was published in Part 2 of the *Gazette officielle du Québec* of 8 December 1999 with a notice that it could be made by the Government upon the expiry of 45 days following that publication;

WHEREAS it is expedient to make the Regulation to amend the Parks Regulation;

IT IS ORDERED, therefore, upon the recommendation of the Minister responsible for Wildlife and Parks:

THAT the Regulation to amend the Parks Regulation, attached to this Order in Council, be made.

MICHEL NOËL DE TILLY,  
*Clerk of the Conseil exécutif*

---

**Regulation to amend the Parks  
Regulation\***

Parks Act  
(R.S.Q., c. P-9, s. 9)

1. The Parks Regulation is amended by adding the following at the end of section 1:

“**SCHEDULE 20**

PARC DE CONSERVATION DES HAUTES-  
GORGES-DE-LA-RIVIÈRE-MALBAIE”.

2. Schedule 20 attached to this Regulation is added after Schedule 19.

3. This Regulation comes into force on the date of coming into force of the Order in Council concerning the amendment to the limits of Réserve écologique des Grands-Ormes.

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\* The Parks Regulation, made by Order in Council 567-83 dated 23 March 1983 (1983, *G.O.* 2, 1399), was last amended by the Regulation made by Order in Council 191-99 dated 10 March 1999 (1999, *G.O.* 2, 277). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 2000, updated to 1 February 2000.



Gouvernement du Québec

## O.C. 627-2000, 24 May 2000

Securities Act  
(R.S.Q., c. V-1.1)

### Securities — Amendments

Regulation to amend the Regulation respecting securities

WHEREAS, under sections 150, 160 and 162 of the Securities Act (R.S.Q., V-1.1), the Government may make regulations on the matters set forth therein;

WHEREAS, in accordance with the Act, the Government made, by Order in Council 660-83 dated 30 March 1983, the Regulation respecting securities;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation was published in Part 2 of the *Gazette officielle du Québec* of 29 March 2000 with a notice that it could be made by the Government upon the expiry of 45 days following that publication;

WHEREAS it is expedient to make the Regulation, with amendments;

IT IS ORDERED, therefore, upon the recommendation of the Minister of State for the Economy and Finance and Minister of Finance:

THAT the Regulation to amend the Regulation respecting securities, attached to this Order in Council, be made.

MICHEL NOËL DE TILLY,  
*Clerk of the Conseil exécutif*

## Regulation to amend the Regulation respecting securities\*

Securities Act  
(R.S.Q., c. V-1.1, ss. 150, 160 and 162)

1. The Regulation respecting securities is amended by inserting the following section after section 191.2:

“**191.3.** Any person who intends to act as an intermediary in the trading of securities without giving advice on the purchase or sale of securities shall apply for registration as a discount broker.”.

2. The first paragraph of section 192 is amended by

(1) deleting subparagraphs 1 to 4; and

(2) inserting the following subparagraphs after subparagraph 7:

“(7.1) dealer distributing Québec business investment company (QBIC) shares, for persons who intend to limit their activity to distributing QBIC shares;

(7.2) debt security dealer, for persons who intend to limit their activity to the distribution or sale of the securities described in paragraphs 1 and 2 of section 41 of the Act;”.

3. The following section is inserted after section 192:

“**192.0.1.** Only representatives of registered unrestricted practice dealers or registered discount brokers may register under the following categories:

(1) group savings representatives, for representatives who intend to distribute shares in unincorporated mutual funds or units in mutual funds;

(2) investment contract representatives, for representatives who intend to distribute investment contracts;

(3) scholarship plan representatives, for representatives who intend to distribute units in scholarship plans.”.

4. The following is substituted for section 197.1:

“**197.1.** Representatives who act as discount brokers, group savings representatives, investment contract representatives or scholarship plan representatives shall always describe themselves as representatives and indicate the category to which they belong.”.

5. Section 202 is amended by

(1) inserting “, to a discount broker” after “with an unrestricted practice” in the third paragraph; and

(2) inserting the following after the third paragraph:

“The third paragraph also applies to the representative of a discount broker who moves to an unrestricted practice dealer or to a restricted practice dealer.”.

\* The Regulation respecting securities, made by Order in Council 660-83 dated 30 March 1983 (1983, *G.O.* 2, 1269), was last amended by the Regulation made by Order in Council 566-97 dated 30 April 1997 (1997, *G.O.* 2, 1946). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 2000, updated to 1 February 2000.

6. Section 208 is amended by deleting the words “except the discount dealer,”.

7. Section 213 is amended by substituting the words “, for a debt security dealer or a dealer distributing QBIC shares” for the words “for a mutual fund dealer, scholarship plan dealer or investment contract dealer” in subparagraph 3 of the second paragraph.

8. The Regulation is amended by inserting the following section after section 219:

“**219.1.** A dealer distributing QBIC shares may not underwrite the distribution of those securities and the dealer shall immediately deposit any funds received into a trust account controlled by the issuer’s trustee.”.

9. Section 237.3 is amended by substituting the following paragraph for paragraph 3:

“(3) to a debt security dealer, a dealer distributing QBIC shares or to a security issuer.”.

10. Sections 246, 246.1 and 249.1 are revoked.

11. Section 272 is amended by substituting “the confirmation slip prescribed by section 162 of the Act” for “the transaction notice prescribed by section 246 relating to the first payment” in the first paragraph.

12. Form 2 is amended by substituting the following for item 2 (1) of Section A:

“(1) **DEALER**

- (a) unrestricted practice  (b) discount broker  (c) restricted practice
- security issuer\*\*
  - financial intermediary
  - QBIC shares distributor
  - debt securities
  - others (specify)

YES    NO

Do you intend to offer portfolio management services?

13. Form 3 is amended by inserting the following after “Unrestricted” in item 3 of Section A:

- “  Discount broker  
 Debt securities  
 Distribution of QBIC shares”.

14. This Regulation comes into force on 1 July 2000.

Gouvernement du Québec

**O.C. 628-2000, 24 May 2000**

Professional Code  
(R.S.Q., c. C-26)

**Traducteurs et interprètes agréés**

— **Code of ethics**

— **Amendments**

Regulation to amend the Code of Ethics of the Ordre professionnel des traducteurs et interprètes agréés du Québec

WHEREAS under section 87 of the Professional Code (R.S.Q., c. C-26), the Bureau of a professional order must make, by regulation, a code of ethics governing the general and special duties of the professional towards the public, his clients and his profession, particularly the duty to discharge his professional obligations with integrity;

WHEREAS under the same section of the Code, the code of ethics must contain, *inter alia*, provisions setting out the conditions and procedures applicable to the exercise of the rights of access and correction provided for in sections 60.5 and 60.6 of the Code and provisions concerning a professional’s obligation to release documents to his client;

WHEREAS at its meeting of 21 April 1999, the Bureau of the Ordre professionnel des traducteurs et interprètes agréés du Québec made a regulation to amend the present Code of Ethics;

WHEREAS under section 95.3 of the Code, the secretary of the Order has sent a draft of the Regulation to every member of the Order at least 30 days before its adoption by the Bureau of the Order;

WHEREAS in accordance with the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation was published in Part 2 of the *Gazette officielle du Québec* of 8 September 1999 with a notice indicating, in particular, that it could be submitted to the Government which could approve it with or without amendments, upon the expiry of 45 days following the date of its publication.

WHEREAS in accordance with section 95 of the Code, the Regulation was sent to the Office which examined it and made its recommendation;

WHEREAS it is expedient to approve the Regulation;

IT IS ORDERED, therefore, upon the recommendation of the Minister responsible for the administration of legislation respecting the professions:

THAT the Regulation to amend the Code of Ethics of the Ordre professionnel des traducteurs et interprètes agréés du Québec, attached to this Order in Council, be approved.

MICHEL NOËL DE TILLY,  
*Clerk of the Conseil exécutif*

## **Regulation to amend the Code of ethics of the Ordre professionnel des traducteurs et interprètes agréés du Québec\***

Professional Code  
(R.S.Q., c. C-26, s. 87, par. 4°)

1. The Code of Ethics of the Ordre professionnel des traducteurs et interprètes agréés du Québec is amended by substituting the following for Subdivision 8 of Division II:

*“§8. Conditions and procedure applicable to the exercise of the rights of access and correction provided for in sections 60.5 and 60.6 of the Professional Code and provisions concerning a member’s obligation to release documents to the client*

### **§8.1. General**

**31.1.** A member may require that a request covered by section 31.2, 31.5 and 31.8 be made and the right be exercised at his professional domicile during his regular working hours.

*§8.2. Conditions and procedure applicable to the exercise of the right of access provided for in section 60.5 of the Professional Code*

**31.2.** In addition to the particular rules prescribed by law, a member shall promptly follow up, at the latest within 30 days of its receipt, on any request made by the client whose purpose is:

1° to consult documents concerning him in any record established in his respect;

2° to obtain a copy of the documents concerning him in any record established in his respect.

**31.3.** A member may charge reasonable fees not exceeding the cost of reproducing or transcribing documents or the cost of forwarding a copy, with regard to any request referred to by paragraph 2 of section 31.2. A member charging such fees shall, before proceeding with reproducing, transcribing or forwarding the aforementioned, inform the client of the approximate amount he will have to pay.

**31.4.** A member who, pursuant to the second paragraph of section 60.5 of the Professional Code, denies the client access to the information contained in a record established in his respect shall inform the client in writing that the disclosure would likely cause serious harm to the client or to a third party.

The member must also, in the same document:

1° identify the serious harm to the client or to a third party;

2° identify the third party referred to.

*§8.3. Conditions and procedure applicable to the exercise of the right of correction provided for in section 60.6 of the Professional Code*

**31.5.** In addition to the particular rules prescribed by law, a member shall promptly follow up, at the latest within 30 days of its receipt, on any request made by the client whose purpose is:

1° to cause to be corrected any information that is inaccurate, incomplete or ambiguous regarding the purpose for which it was collected and that is contained in a document concerning him in any record established in his respect;

2° to cause to be deleted any information that is outdated or not justified by the object of the record established in his respect; or,

3° to file in the record established in his respect the written comments that he prepared.

**31.6.** A member who agrees to a request referred to in section 31.5 shall issue to the client, free of charge, a copy of the document or the part of the document that allows the client to see for himself that the information has been corrected or deleted or, as the case may be, an attestation that the written comments prepared by the client have been filed in the record.

\* The Code of Ethics of the Ordre professionnel des traducteurs et interprètes agréés du Québec approved by Order-in-Council 929-94 dated June 22, 1994 (1994, G.O. 2, 2372) has never been amended.

**31.7.** Upon written request from the client, a member shall at no charge for the client forward a copy of the corrected information or an attestation stating that the information has been deleted or, as the case may be, that written comments have been filed in the record, to any person from whom the member received the information that was subject to the correction, deletion or comments and to any person to whom the information has been provided.

**§8.4.** *Provisions concerning a member's obligation to release documents to the client*

**31.8.** A member must promptly follow up on any written request made by a client, whose purpose is to recover a document entrusted to the member by the client.

A member shall indicate in the client's record, where applicable, the reasons supporting the client's request.”.

**2.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

3647

Gouvernement du Québec

**O.C. 634-2000, 24 May 2000**

Municipal Code of Québec  
(R.S.Q., c. C-27.1)

Agreement respecting the transfer to Municipalité régionale de comté de Charlevoix-Est on an experimental basis of responsibilities concerning the management of forests in the domain of the State

WHEREAS under section 10.5 of the Municipal Code of Québec (R.S.Q., c. C-27.1), a regional county municipality (RCM) may enter into an agreement with the Government under which certain responsibilities that are assigned by an Act or regulation to the Government, a Minister or a government body, are transferred to the municipality on an experimental basis;

WHEREAS under section 10.6 of the Code, the agreement must set out the conditions governing the exercise of the responsibility to which it applies, including the duration thereof, and, where applicable, provide for the renewal of the agreement and determine the rules relating to the financing required for its implementation;

WHEREAS under section 10.8 of the Code, such an agreement shall prevail over any inconsistent provision

of any general law or special Act or of any regulation thereunder;

WHEREAS the Minister of Natural Resources holds the powers and exercises the duties with respect to forest management under the Forest Act (R.S.Q., c. F-4.1), amended by chapters 36 and 40 of the Statutes of 1999;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Natural Resources and of the Minister of State for Municipal Affairs and Greater Montréal and Minister of Municipal Affairs and Greater Montréal:

THAT the Minister of Natural Resources be authorized to sign an agreement, for and on behalf of the Government, with Municipalité régionale de comté de Charlevoix-Est under which responsibilities would be temporarily transferred, as a pilot project, to the RCM for the management of public forests established as public forest reserves located within the limits of local municipalities; the duties are set out in the Schedule to this Order in Council;

THAT the agreement have a term of five years, which is renewable;

THAT the following conditions apply to the agreement:

(a) the RCM shall, in exercising the transferred duties, comply with the provisions of the Forest Act (R.S.Q., c. F-4.1) amended by chapter 40 of the Statutes of 1999 and its regulations as amended, namely with respect to sustainable forest development and forest production and conservation;

(b) the RCM shall not adopt restrictive provisions to favour local use of the resource over projects that have greater potential for employment and development;

(c) the RCM shall become a member of the forest protection organizations recognized by the Minister of Natural Resources and shall pay the required assessment. The RCM's contributions to the organizations shall apply to territory where the RCM has not entered into a forest management agreement that covers an area of 800 hectares or more. Where it does have such an agreement, it shall require that the holder become a member of the organizations and pay the required assessment;

(d) the RCM shall draw up, for the approval of the Minister of Natural Resources, a forest management plan that includes a computation of production and forest management activities for the term of this agreement;

(e) the RCM shall consult with the Société de la faune et des parcs du Québec regarding the forest development plans prepared by the holders of forest management agreements in accordance with the terms and conditions agreed to by the parties;

(f) the RCM shall file an annual report with the Minister of Natural Resources on 31 March on the activities that took place and the use of the income from forest management; it shall also prepare a five-year report on the forest management provided for in the pilot project;

(g) the Minister of Natural Resources shall continue to hold the powers and duties that are not expressly delegated to the RCM by virtue of the territorial management agreement;

(h) the Minister of Natural Resources may, if applicable, specify the scope of the delegated powers and duties with regard to forest management.

MICHEL NOËL DE TILLY,  
*Clerk of the Conseil exécutif*

## SCHEDULE

The following responsibilities are defined in the Forest Act (R.S.Q., c. F-4.1), amended by chapter 40 of the Statutes of 1999, and referred to in the agreement with Municipalité régionale de comté de Charlevoix-Est on the pilot project for the delegation of forest management:

— the issuing of the following classes of forest management permits: for the harvest of firewood for domestic or commercial purposes, for sugar bush management and operation for acericultural purposes, for public utility works, for mining activities, for a wildlife or recreational development project;

— the management of public forest reserves and the sale of harvested timber. Notwithstanding the provisions of the Forest Act, the RCM may market harvested timber in accordance with the terms and conditions it determines;

— the signing of forest management agreements;

— the issuing of permits for the construction of or repairs to forest roads;

— the issuing of authorizations on the width of the right-of-way and the destination of the harvested timber following construction work or repairs made to other roads than forest roads;

— the restriction or prohibition of access to forest roads in the interest of the public, particularly in case of fire, thaw periods or for safety reasons;

— the application of forest management standards, in accordance with the Regulation respecting standards of forest management for forests in the public domain made by Order in Council 498-96, dated 24 April 1996 or the standards prescribed in accordance with the provisions of sections 25.2 and 25.3 of the Forest Act;

— the collection of dues from holders of authorizations, permits or rights issued by the RCM in accordance with the regulations in force;

— the surveillance and supervision of forest management, in accordance with the Forest Act and the regulations thereunder. The RCM shall notify the Minister of Natural Resources of any offence against the Act or the regulations in force and forward him the file it has prepared on the matter;

— the supervision of the scaling of harvested timber, in accordance with the standards determined by regulation of the Government. The RCM shall use the computerized scaling method to forward the data to the Minister of Natural Resources.

3648

Gouvernement du Québec

### O.C. 637-2000, 24 May 2000

An Act respecting income support, employment assistance and social solidarity (R.S.Q., c. S-32.001)

#### Income support — Amendments

Regulation to amend the Regulation respecting income support

WHEREAS in accordance with the Act respecting income support, employment assistance and social solidarity (R.S.Q., c. S-32.001), the Government made the Regulation respecting income support by Order in Council 1011-99 dated 1 September 1999;

WHEREAS it is expedient to amend the Regulation;

WHEREAS under sections 10, 12 and 13 of the Regulations Act (R.S.Q., c. R-18.1), a draft Regulation to amend the Regulation respecting income support was published in Part 2 of the *Gazette officielle du Québec* of 19 April

2000, p. 2017, with a notice that it could be made by the Government upon the expiry of 20 days following that publication;

WHEREAS the 20-day period has expired;

WHEREAS it is expedient to make the Regulation without amendment;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Social Solidarity:

THAT the Regulation to amend the Regulation respecting income support, attached to this Order in Council, be made.

MICHEL NOËL DE TILLY,  
*Clerk of the Conseil exécutif*

## Regulation to amend the Regulation respecting income support\*

An Act respecting income support, employment assistance and social solidarity  
(R.S.Q., c. S-32001, s. 156, par. 30 and s. 160)

1. The Regulation respecting income security is amended by substituting the following for section 152:

“**152.** The benefits of an independent adult or of a family shall be reduced by \$75 per month for 12 months each time an adult fails to comply with any provision in sections 45 and 47 of the Act. That amount shall be \$50 in the case of an adult referred to in section 7 or 8.

However, the reduction provided for in the first paragraph shall be \$150, or \$100 in the case of an adult referred to in section 7 or 8, where the same adult fails to comply for the third time during a 12-month period.

**152.1.** The benefits of an independent adult or of a family shall be reduced by \$150 for 12 months each time an adult fails to comply with any provision in section 49 of the Act. That reduction shall be \$100 in the case of an adult referred to in section 7 or 8.

\* The Regulation respecting income support, made by Order in Council 1011-99 dated 1 September 1999 (1999, *G.O.* 2, 2881), was last amended by the Regulations made by Orders in Council 339-2000 dated 22 March 2000 (2000, *G.O.* 2, 1840) and 546-2000 dated 3 May 2000 (2000, *G.O.* 2, 2206). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 2000, updated to 1 February 2000.

**152.2.** The reductions referred to in sections 152 and 152.1 shall apply as soon as the failure to comply is brought to the attention of the Minister and, in the case of subsequent infringements, the reductions shall be applied concurrently. However, those reductions may not decrease the benefits by an amount exceeding \$100 in the case of an adult referred to in section 7 or 8, \$150 in the case of a family that includes only one adult member, or \$300 in other cases.”.

2. The following is substituted for section 153:

“**153.** The measure provided for in section 152 shall cease to apply where the adult no longer fails to comply with the instructions given by the Minister, comes to an agreement with the Minister on another activity to be carried out, in particular under an Individualized Plan, or during one month earns work income, calculated in accordance with section 87, that exceeds the amount excluded for work income under section 88. In the latter case, the measure shall cease to apply as of the month following that in which the income was reported to the Minister.

**153.1.** The measure provided for in section 152.1 shall cease to apply where the adult accepts a job that he had refused, returns to a job that he had quit or lost through his own fault, or accepts a job that has characteristics similar at least in salary and in duration.”.

3. Section 154 is amended by substituting “The reductions provided for in sections 152 and 152.1 do not apply:” for the part preceding paragraph 1.

4. Section 188 is amended by inserting “or 152.1” in subparagraph 2 of the first paragraph after “152”.

5. This Regulation comes into force on 1 July 2000.

3649

Gouvernement du Québec

## O.C. 639-2000, 24 May 2000

An Act respecting occupational health and safety  
(R.S.Q., c. S-2.1)

### Occupational health and safety in mines — Amendments

Regulation to amend the Regulation respecting occupational health and safety in mines

WHEREAS under subparagraphs 1 and 19 of the first paragraph of section 223 of the Act respecting occupa-



tional health and safety (R.S.Q., c. S-2.1), the Commission de la santé et de la sécurité du travail may make regulations on the matters mentioned therein;

WHEREAS under the second paragraph of section 223 of that Act, the content of the regulations may vary according to the categories of persons, workers, employers, workplaces, establishments or construction sites to which they apply, and the regulations may also provide times within which they are to be applied, and these times may vary according to the object and scope of each regulation;

WHEREAS under the third paragraph of section 223 of that Act, a regulation may refer to an approval, certification or homologation of the Bureau de normalisation du Québec or of another standardizing body;

WHEREAS in accordance with section 224 of that Act and with section 10 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation attached to this Order in Council was published in Part 2 of the *Gazette officielle du Québec* of 1 December 1999, with a notice indicating that at the expiry of 60 days following the notice, it would be adopted by the Commission with or without amendment and submitted to the Government for approval;

WHEREAS the Commission adopted the Regulation to amend the Regulation respecting occupational health and safety in mines, with amendments, at its meeting of 16 March 2000;

WHEREAS it is expedient to approve the Regulation;

IT IS ORDERED, therefore, on the recommendation of the Minister of State for Labour and Employment and Minister of Labour:

THAT the Regulation to amend the Regulation respecting occupational health and safety in mines, attached to this Order in Council, be approved.

MICHEL NOËL DE TILLY,  
*Clerk of the Conseil exécutif*

## Regulation to amend the Regulation respecting occupational health and safety in mines\*

An Act respecting occupational health and safety (R.S.Q., c. S-2.1, s. 223, 1st par., subpars. 1 and 19, 2nd and 3rd pars.)

1. The Regulation respecting occupational health and safety in mines is amended in section 225 by adding the following after the second paragraph:

“The tests provided for in the first and second paragraphs must be conducted according to a procedure posted at the hoistman’s work station.”.

2. The following section is added after section 288:

“**288.1.** Notwithstanding section 288, the minimum safety factor of a new hoisting rope installed on a drum hoist used in a vertical shaft shall be determined according to the following formula:

$$\text{minimum safety factor} = \frac{25\,000}{4\,000+L}$$

(L being the maximum length of rope in meters suspended below the headsheave where the conveyance is at the lower limit of travel.)

In such a case, the following standards must be met:

(1) the drum hoist must comply with the standard entitled “Code of Practice for Performance, Operation, Testing and Maintenance of Drum Winders relating to Rope Safety” (Draft prepared by working group of the South African Bureau of Standards), April 24, 1996, with the exception of sections 4.1, 4.2, subdivision 6.6, section 10.5.2.2 and sections 16.3, 16.4, 16.6.1 to 16.14, 16.17 to 16.19, 16.21, 16.22, 16.24 to 16.34.2.3, 16.55, 16.59, 16.61 to 16.66;

(2) the hoisting rope must be used, maintained and checked in accordance with the standard entitled “Code of Practice for the Condition Assessment of Steel Wire Ropes on Mine Winders”, SABS 0293.

\* The Regulation respecting occupational health and safety in mines, made by Order in Council 213-93 dated 17 February 1993 (1993, *G.O.* 2, 1757), was last amended by the Regulations made by Orders in Council 1236-98 dated 23 September 1998 (1998, *G.O.* 2, 4049) and 460-2000 dated 5 April 2000 (2000, *G.O.* 2, 2009). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 2000, updated to 1 February 2000.

Moreover, the standards provided for in this Regulation shall continue to apply, except where amended by those referred to in subparagraphs 1 and 2 of the second paragraph.”.

3. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

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## Decision 00-19

### Decision of the Société de la faune et des parcs du Québec dated 25 May 2000

An Act respecting the conservation and development of wildlife  
(R.S.Q., c. C-61.1, s. 84.1, 84.3)

An Act respecting the Société de la faune et des parcs du Québec  
(1999, c. 36, s. 168, 2nd para.)

CONCERNING the Regulation respecting fishing and hunting zones

THE SOCIÉTÉ DE LA FAUNE ET DES PARCS DU QUÉBEC  
HAS DECIDED THE FOLLOWING:

Schedules X and XII of the Regulation respecting fishing and hunting zones\* are replaced by the enclosed corresponding schedules.

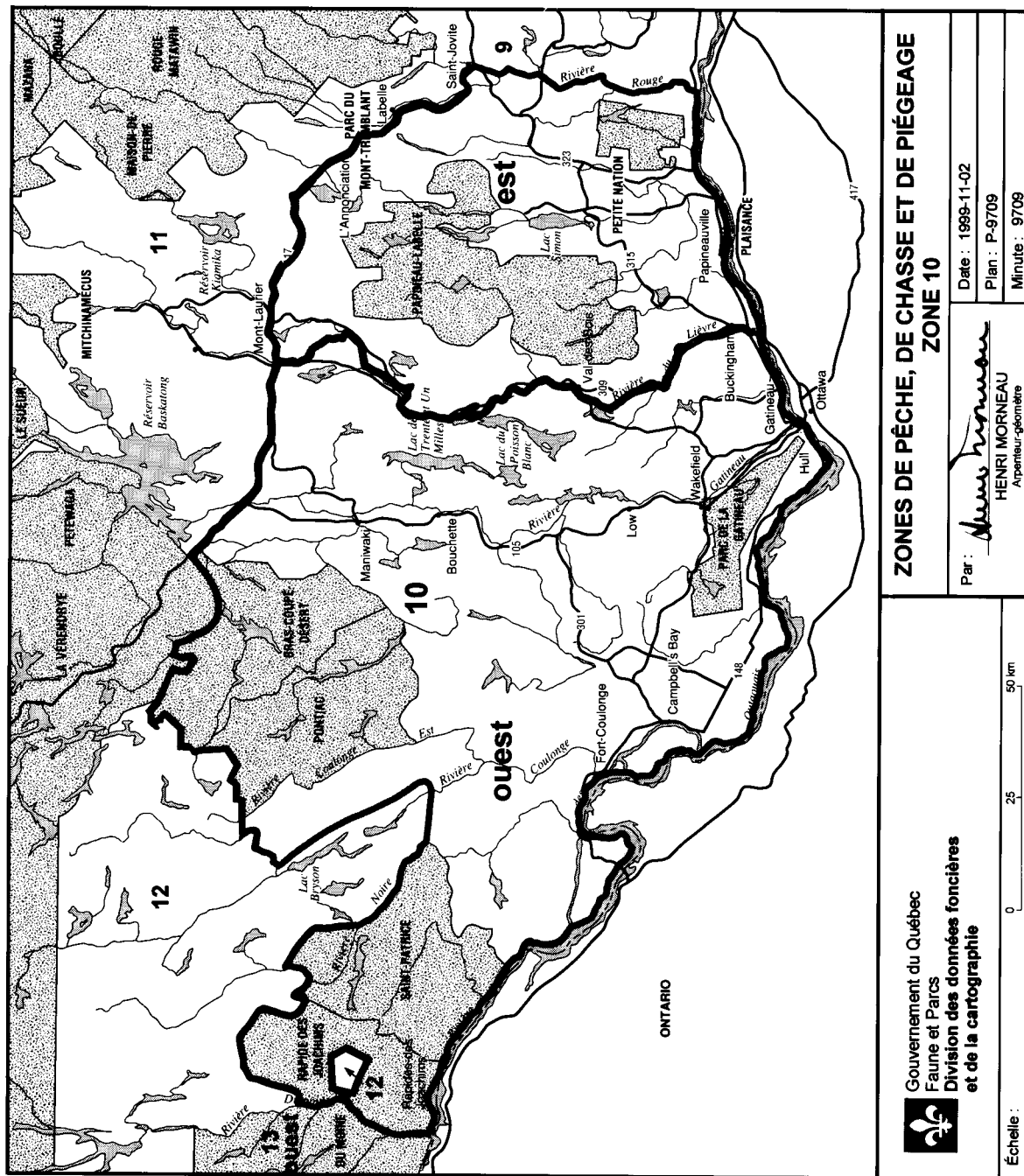
This decision shall take effect on the date of its publication in the *Gazette officielle du Québec*.

HERVÉ BOLDUC,  
*Secretary of the Société de la faune  
et des parcs du Québec*

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\* The last amendment to the Regulation respecting fishing and hunting zones (Order in Council 27-90 dated 10 January 1990) was made by Minister's Order 99025 dated 31 August 1999 (1999, *G.O.* 2, p. 2970). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 2000, updated to 1 February 2000.

SCHEDULE X



**ZONES DE PÊCHE, DE CHASSE ET DE PIÉGEAGE  
ZONE 10**

Date : 1999-11-02  
Plan : P-9709  
Minute : 9709

Par : *Henri Morneau*  
**HENRI MORNEAU**  
Arpenteur-géomètre

Gouvernement du Québec  
Faune et Parcs  
Division des données foncières  
et de la cartographie

Échelle : 0 25 50 km

TECHNI-CARTE INC.



**M.O., 2000-016****Order of the Minister responsible for Wildlife and Parks dated 16 May 2000**

An Act respecting the conservation and development of wildlife  
(R.S.Q., c. C-61.1)

Substituting Schedule 15 of Order in Council 568-87 dated April 8, 1987

THE MINISTER RESPONSIBLE FOR WILDLIFE AND PARKS,

GIVEN that the Rapide-des-Joachims Controled Zone was established in accordance with section 81.2 of the Wildlife Conservation Act (R.S.Q., c. C-61), by the Regulation respecting the Rapide-des-Joachims Controled Zone (R.R.Q., 1981, c. C-61, r. 143) replaced by Order in Council 568-87 dated April 8, 1987;

GIVEN that the Wild-life Conservation Act has been replaced by the Act respecting the conservation and development of wildlife (R.S.Q., c. C-61.1);

GIVEN that under section 186 of the Act respecting the conservation and development of wildlife every provision of a regulation, order in council or order made by the Government under the Wild-life Conservation Act continues to be in force to the extent that it is consistent with that Act;

GIVEN that under section 184 of that Act the provisions of the Wild-life Conservation Act are replaced by the corresponding provisions of the Act respecting the conservation and development of wildlife;

GIVEN that under section 104 of the Act respecting the conservation and development of wildlife (R.S.Q., c. C-61.1), amended by section 17 of Chapter 29 of the Acts of 1998 and by section 85 of Chapter 40 of the Acts of 1999, the Minister may establish, after consultation with the Minister of Natural Resources, controled zones on lands in the domain of the State for the development, harvesting or conservation of wildlife or a species of wildlife;

GIVEN that under section 33 of the Act modifying the Act respecting the conservation and development of wildlife and the Act respecting commercial fisheries and aquaculture (1998, c. 29), every order in council made by the Government under section 104 of the Act respecting the conservation and development of wildlife before June 17, 1998 continues to be in force until it is replaced by an order of the Minister;

CONSIDERING that it is expedient to alter the territory of the Rapide-des-Joachims Controled Zone;

CONSIDERING that it is expedient to replace Schedule 15 of Order in Council 568-87 dated April 8, 1987;

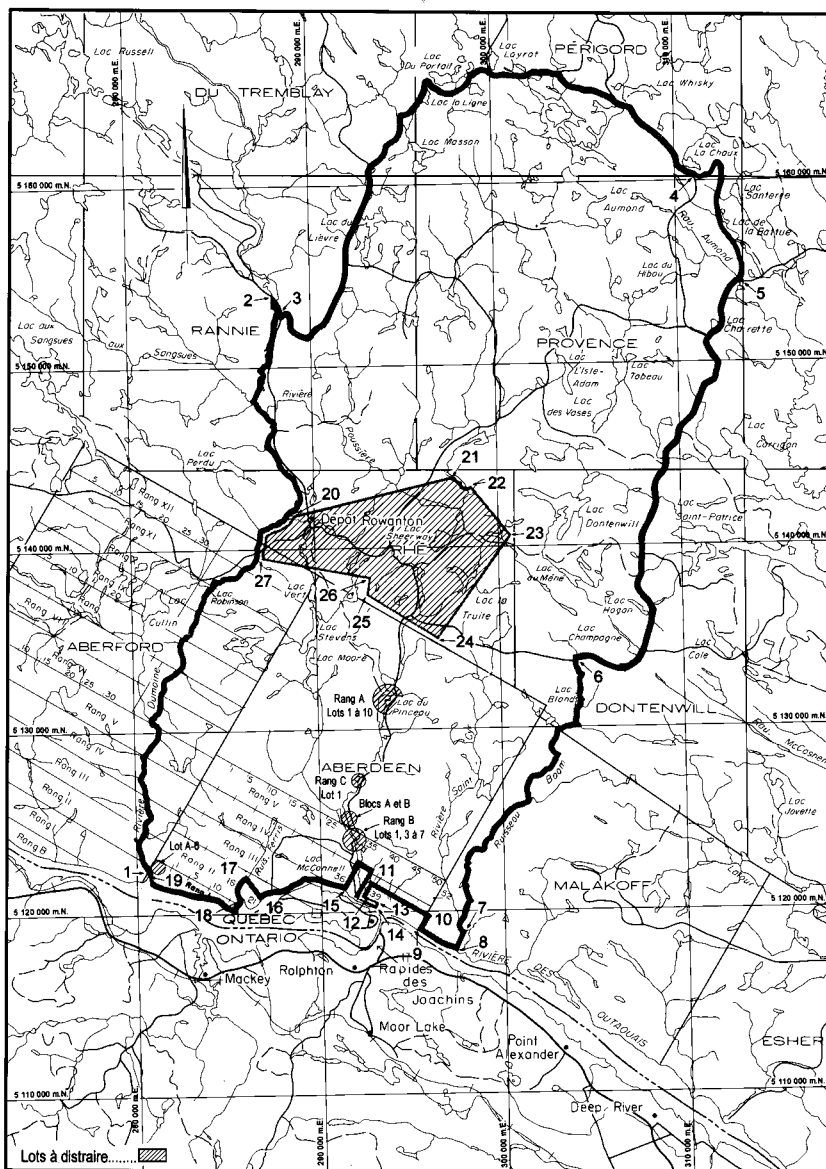
ORDERS THAT:


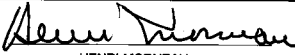
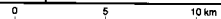
Schedule 15 attached to this Order be substituted for Schedule 15 of Order in Council 568-87 dated April 8, 1987;

This Order comes into force on the day of its publication in the *Gazette officielle du Québec*.

Québec, 16 May 2000

GUY CHEVRETTE,  
*Minister responsible for Wildlife and Parks*



 Gouvernement du Québec Faune et Parcs Division des données foncières et de la cartographie		<b>ZEC RAPIDES-DES-JOACHIMS</b>	
Cantons de : ABERDEEN, ABERFORD, DONTENWILL, DU TREMBLAY, MALAKOFF, PÉRIGORD, PROVENCE, RANNIE et RHÉ			
Circ. foncière : PONTIAC		M.R.C. : PONTIAC	
Préparé par : 		Minute : 9706	No. Plan : P-9706
HENRI MORNEAU arpenteur-géomètre		Date : 1999-10-08	No. Dossier :
Échelle : 1 / 250 000			

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## Draft Regulations

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### Draft Regulation

An Act respecting income support, employment assistance and social solidarity (R.S.Q., c. S-32.001)

#### Income support — Amendments

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation to amend the Regulation respecting income support, the text of which appears below, may be made by the Government upon the expiry of 25 days following this publication.

The purpose of the draft Regulation is to amend the dependent children adjustment amounts related to the family allowances granted under the Act respecting family benefits (R.S.Q., c. P-19.1) so as to harmonize them with the amendments that will be made to those allowances as of next 1 August. The draft Regulation also increases the adjustments granted for dependent children of full age who attend an educational institution at the secondary level in general education.

Under section 13 of the Regulation Act, the draft may be made within a period shorter than the 45 days prescribed in section 11 of that same Act because of the urgency due to the following circumstances:

— the amendments to the draft Regulation correspond with those prescribed for the amounts of family allowance granted under the Act respecting family benefits and therefore must come into force on the same date, that is, 1 August 2000.

Further information on the draft Regulation may be obtained by contacting Yvon Boudreau, Assistant Deputy Minister, Direction générale des politiques, 425, rue Saint-Amable, 4<sup>e</sup> étage, Québec (Québec) G1R 4Z1, telephone: (418) 643-7006; fax: (418) 643-0019.

Any interested person having comments to make on the draft Regulation is asked to send them in writing, before the expiry of the 25-day period, to the Minister of Social Solidarity, 425, rue Saint-Amable, 4<sup>e</sup> étage, Québec (Québec) G1R 4Z1.

ANDRÉ BOISCLAIR,  
*Minister of Social Solidarity*

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### Regulation to amend the Regulation respecting income support\*

An Act respecting income support, employment assistance and social solidarity (R.S.Q., c. S-32.001, s. 156, par. 12, ss. 160 and 161)

1. Section 35 of the Regulation respecting income support is amended by substituting the amount “\$52.08” for “\$66.25”.

2. Section 39 is amended by substituting the amounts “\$234.50” and “\$217.33” for “\$255.67” and “\$209”.

3. This Regulation comes into force on 1 August 2000.

3652

### Draft Regulation

Professional Code (R.S.Q., c. C-26)

#### Psychologists — Standards for equivalence of diplomas and training for the issue of a permit by the Ordre

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Bureau of the Ordre professionnel des psychologues du Québec adopted, at its meeting of 10 December 1999, the Regulation regarding standards for equivalence of diplomas and training for the issue of a permit by the Ordre professionnel des psychologues du Québec.

The Regulation, the text of which appears below, will be examined by the Office des professions du Québec pursuant to section 95 of the Professional Code. It will then be submitted with the recommendation of the Office to the Government which, under the same section, may approve it, with or without amendment, upon the expiry of 45 days following this publication.

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\* The Regulation respecting income support, made by Order in Council 1011-99 dated 1 September 1999 (1999, *G.O.* 2, 2881), was last amended by the Regulation made by Orders in Council 339-2000 dated 22 March 2000 (2000, *G.O.* 2, 1840) and 546-2000 dated 3 May 2000 (2000, *G.O.* 2, 2206). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 2000, updated to 1 February 2000.

The Regulation, according to the Ordre professionnel des psychologues du Québec, specifies, under paragraph *c* of section 93 of the Professional Code, the standards for equivalence of diplomas issued by educational establishments situated outside Québec, for the purposes of issuing a permit, and standards of equivalence of the training of a person who does not hold a diploma required for such purposes. The Regulation will have no impact on businesses, including small and medium-sized businesses or others.

Further information with respect to the proposed regulation may be obtained by contacting Alain Lanson, Assistant Secretary, Ordre professionnel des psychologues du Québec, 1100, avenue Beaumont, bureau 510, Mont-Royal (Québec) H3P 3H5; telephone: (514) 738-1881; fax: (514) 737-6431.

Any person having comments on this matter is asked to send them, before the expiry of the 45-day period, to the Chairman of the Office des professions du Québec, 800, place D'Youville, 10<sup>e</sup> étage, Québec (Québec) G1R 5Z3. The Office will forward the comments to the Minister responsible for the administration of legislation respecting the professions; they may also be sent to the professional order that adopted the Regulation as well as to interested persons, departments or bodies.

JEAN-K. SAMSON,  
*Chairman of the Office des  
Professions du Québec*

## **Regulation regarding standards for equivalence of diplomas and training for the issue of a permit by the Ordre professionnel des psychologues du Québec**

Professional Code  
(R.S.Q., c. C-26, s. 93, par. *c*)

1. The Secretary of the Ordre professionnel des psychologues du Québec shall send a copy of this Regulation to a candidate who applies for recognition of a diploma issued by a teaching establishment located outside Québec or for recognition of a training equivalence.

In the present Regulation, “diploma equivalence” means recognition by the Bureau of the Order that a diploma issued by a teaching establishment located outside Québec attests that the level of a candidate’s knowledge and skills is equivalent to that acquired by the holder of a diploma recognized as providing the right to a permit.

In the present regulation, “training equivalence” means the recognition by the Bureau of the Order that a candidate’s training demonstrates that he/she has acquired the level of knowledge and skills equivalent to that acquired by the holder of a diploma recognized as providing the right to a permit.

2. The candidate wishing to have a diploma equivalence or a training equivalence recognized must provide the Secretary with the following documents in support of his or her application, along with the file examination fees set out in Paragraph 8 of Section 86.01 of the Professional Code (R.S.Q., c. C-26):

1. his/her academic record, including an official transcript of his/her marks, a description of course content and the number of hours of courses taken;

2. copies of all diplomas earned, certified as true by the teaching establishments that issued them;

3. an attestation by the university-level teaching establishment having issued any diploma that the person has successfully completed all required internships, training periods and practical work;

4. an attestation of the candidate’s participation in any internship or any training activity, the description of the internship activities or the training activities, including, notably, the number of hours of the internship or of the training activity, the number of hours of supervision and the supervisor’s qualifications;

5. an attestation and a description of the candidate’s pertinent work experience, including a description of his/her functions and responsibilities and the number of work hours carried out with or without supervision, and when applicable, an outline of the supervisor’s qualifications.

3. Any document sent in support of an application for recognition of a diploma or training equivalence and drafted in a language other than English or French shall be accompanied by an English or French translation of its content, attested to by a declaration under oath of the person who did the translation.

4. The Secretary shall forward to the committee set up by the Bureau to evaluate applications of diploma or training equivalences the documents that must be provided pursuant to Section 2, so that the committee may make an appropriate recommendation.

At the first meeting following the date of the receipt of the recommendation, the Bureau shall decide, in compliance with the present Regulation, if it recognizes the



diploma or training equivalence and it will inform the candidate of its decision, in writing, within the next 30 days.

5. A candidate who holds a diploma in psychology issued by a university-level teaching establishment located outside Québec may benefit from a diploma equivalence if he or she demonstrates the following:

1. that the diploma in psychology was earned upon completion of an undergraduate and graduate, or undergraduate and postgraduate program of university-level studies including a total of 135 course credits, internships, training periods and practical work;

2. he/she has taken, in a university Department of Psychology and within the framework of the programs of study having led to the acquisition of his/her diploma, a minimum of 105 credits pertaining to the following subject areas and distributed as follows:

A minimum of 30 course credits, including at least 6 credits in each of the following areas:

— Biological bases of behaviour, including psychophysiology, comparative psychology, neuropsychology, sensation, psychopharmacology;

— Cognitive and affective bases of behaviour, including learning, memory, perception, cognition, thinking, motivation, emotion;

— Social bases of behaviour, including social psychology, cultural or ethnic group processes, sexual roles, theory of organization and systems;

— Individual and developmental bases of behaviour; including theory of the personality, human development, individual differences, psychopathology;

A minimum of three course credits in each of the following categories:

- History and systems in psychology;
- Statistical analysis techniques;
- Psychometry;
- Scientific method;
- Ethics;

A minimum of 48 course credits in the areas of evaluation, diagnostics and psychological intervention;

3. completion of at least 600 hours of internship, training periods and practical work, including at least 250 hours of direct contact with clients and at least 125 hours of supervision during internship and training periods.

For the purposes of the application of this section:

“credit” means the quantitative value attributed to the activities of a student within the framework of a teaching program, practical training, or research; when the activity is a formal course, a credit represents 15 hours of teaching;

“internship” means placement in a professional working environment under the supervision of at least one psychologist having a minimum of 5 years of practical experience in a field in which the internship is undertaken or of at least one professional working in psychology or a related field and whose expertise and experience are deemed by the committee to be equivalent to those of a psychologist with the same minimum qualifications;

“training period” means a period of activity enabling a student to familiarize himself/herself with the practice of the profession of psychologist with a variety of client groups, that is, with children, adolescents, adults and elderly persons, and with the use of various methods of evaluation and treatment (individual, group and community) under the supervision of at least one psychologist having a minimum of 5 years of practical experience in the field in which the training period is undertaken or of at least one professional working in psychology and whose expertise and experience are deemed by the committee to be equivalent to those of a psychologist with the same minimum qualifications;

“practical work” means general activities designed to complement or further explore the topics that have been taught, and including, in particular, laboratory work.

6. Subject to Section 7, the candidate who holds a diploma in psychology issued by a university-level teaching establishment located outside Québec and whose training program, upon completion, is accredited by the Canadian Psychological Association or the American Psychological Association is granted a diploma equivalence.

7. Despite Sections 5 and 6, when the diploma involved in an application for equivalence has been earned 5 or more years previous to the date of the application, the diploma equivalence shall be refused if the knowledge acquired by the candidate no longer corresponds, based on developments in the profession, to the knowledge currently taught.

However, the diploma equivalence shall be recognized if the training and work experience acquired by the candidate have made it possible for him/her to achieve the required level of knowledge and skills.

8. A candidate is granted a training equivalence if he/she demonstrates that he/she has acquired:

1. knowledge and skills equivalent to that acquired by the holder of a diploma recognized by the Government by virtue of the first paragraph of Section 184 of the Code:

2. pertinent work experience in psychology, of a minimal duration of 5 years.

In the application of the candidate's training equivalence, the Bureau takes the following factors into account:

1. the nature of the candidate's experience and the number of years of experience in psychology;

2. the fact that he/she holds one or more diplomas earned in Québec;

3. the nature and content of courses taken by the candidate;

4. the nature and content of training periods and other ongoing training activities;

5. the total number of years of education.

9. Within 30 days following its decision to refuse recognition of the diploma or training equivalence, the Bureau shall inform the candidate in writing and shall indicate which study programs, internships or examinations must be successfully completed, given the candidate's current level of knowledge, for the equivalence to be recognized.

10. The candidate who receives the information outlined in Item 9 may ask to be heard by the Bureau, provided he/she submits to the Secretary a request in writing, outlining the motives justifying the request, within 30 days of the date on which the decision to deny the diploma or training equivalence is mailed.

The Bureau has 45 days from the date of receipt of the request for a hearing to hear the candidate and, if applicable, to review its decision. To this end, the Secretary summons the candidate in writing, by registered or certified post, at least 10 days before the date of the hearing.

The Bureau's decision is final and must be transmitted to the candidate in writing within 30 days of the date of the hearing.

11. The present Regulation replaces the Regulation respecting standards for equivalence of diplomas for the issue of a permit by the Ordre professionnel des psychologues du Québec, approved under the December 21, 1994 Decree 1835-94 and the Regulation on the standards for equivalence of training for the issue of a permit by the Ordre des psychologues du Québec, approved under the December 21, 1994 Decree 1836-94.

12. The present Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

3651

## Draft Regulation

An Act to ensure safety in guided land transport (R.S.Q., c. S-3.3)

### Rail safety

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation respecting rail safety, the text of which appears below, may be made by the Government upon the expiry of 45 days following this publication.

The purpose of the draft Regulation is to impose minimum rail safety standards on industrial production sites and their access spurs. It provides rules applicable by all rail operators to signals and switching at level crossings. It proposes by reference that the provisions of the federal regulation on the transportation of dangerous goods be made. Lastly, it governs the announcement of works on a track and the writing of traffic and accident reports.

Further information may be obtained by contacting Mr. Alain Bérubé, Direction de la sécurité en transport, ministère des Transports du Québec, 700, boulevard René-Lévesque Est, 22<sup>e</sup> étage, Québec (Québec) G1R 5H1, by telephone at (418) 644-2529 or by fax at (418) 528-5670.

Any interested person having comments to make on the matter is asked to send them in writing, before the expiry of the 45-day period, to the Minister of Transport, 700, boulevard René-Lévesque Est, 22<sup>e</sup> étage, Québec (Québec) G1R 5H1.

GUY CHEVRETTE,  
*Minister of Transport*

## Regulation respecting rail safety

An Act to ensure safety in guided land transport (R.S.Q., c. S-3.3, ss. 50, 51 and 54)

### CHAPTER I RAIL SAFETY CODE

#### DIVISION I SCOPE AND INTERPRETATION

1. The provisions of this Chapter apply to any rail transport system operated on an industrial production site as well as on access spurs linking that site to the nearest railway line.

2. Unless the context indicates otherwise, the provisions of this Chapter respecting locomotives also govern any other motive power.

#### DIVISION II SAFETY STANDARDS

3. A locomotive engineer may not run a locomotive at a speed higher than the restricted speed and under no circumstances at a speed higher than 16 kilometres per hour (10 miles per hour).

The restricted speed is a speed that will permit a locomotive to stop within one-half of the sighting distance of equipment or of a switch not properly lined.

4. Any employee of the rail transport system operator must communicate by the quickest available means of communication to the operator any condition that may affect rail safety.

In case of an emergency, he must have the train movement stopped by any means of signal that he has.

5. A locomotive engineer is responsible for the rail movement of the equipment.

6. Nobody may

- (1) stand in front of moving equipment;
- (2) ride on the side or on the roof of moving equipment when passing side and/or overhead clearance restrictions;
- (3) stand on the end ladder of a moving car, except for the purpose of operating a hand brake;
- (4) get on or off equipment except by using a ladder with steps and handholds.

#### DIVISION III JOBS ESSENTIAL FOR RAIL SAFETY

7. The following jobs are essential for rail safety:

- (1) the rail operating foreman;
- (2) the track maintenance foreman;
- (3) the locomotive engineer;
- (4) the brakeman; and
- (5) the signalman.

The engine crew consists of an engineer and at least one brakeman. Notwithstanding the foregoing, the engineer alone may use a portable locomotive control device without being part of a crew.

Only a locomotive engineer may use a portable locomotive control device.

A person may hold more than one job essential for rail safety.

8. To perform the duties of a job essential for rail safety, a person must hold a certificate of qualification issued by the operator.

9. A person who wishes to perform the duties of a job essential for rail safety must fulfil the following conditions of admission:

- (1) he must take an academic training period provided by the operator which shall allow him to learn the rail safety rules related to the exercise of his duties and those provided for in this Regulation;
- (2) he must take an apprenticeship period provided by the operator that shall allow him to master the job's requirements;
- (3) he must learn where derrails, switches and their locking devices are located;
- (4) he must pass an examination on the knowledge he has acquired during the training and the apprenticeship period.

The operator must give him or record in the file, after he has passed the examination, the certificate of qualification referred to in section 8 bearing, besides the name of the employee, the jobs recognized by the certificate of qualification, the date of the examination and the expiry date of the certificate.

The operator may not appoint a person in a job essential for rail safety if the person is not qualified, except in the case of an apprentice under the immediate supervision of a holder of the required certificate. He is also forbidden to keep a person in a job essential for rail safety if the last examination the person has passed dates back more than five years.

10. The operator must write a rail operating handbook, which contains the following documents:

- (1) this Regulation;
- (2) the particular rail operating rules of the enterprise, if applicable;
- (3) a description of the track indicating the location of derails, switches, compulsory stops, loading and unloading sites;
- (4) the safety rules approved by the Minister under section 55 of the Act to ensure safety in guided land transport (R.S.Q., c. S-3.3) which govern the movement within limits where interlocking signals are working, if applicable;
- (5) the safety instructions prescribed by the manufacturer of the portable locomotive control device, if applicable.

11. The operator must give each person who holds a job essential for rail safety an up-to-date copy of the rail operating handbook.

12. A locomotive engineer must carry the up-to-date rail operating handbook in the performance of his duties.

13. No person may perform the duties of a job essential for rail safety if he is under the influence of alcohol or narcotics.

The operator may not knowingly allow people who are under the influence of alcohol or narcotics to perform duties which are essential for rail safety.

#### **DIVISION IV COMMUNICATION SYSTEM**

14. At the beginning of their shift, the members of the engine crew, when equipped with radios, must carry out an intra-crew test of such radios.

When not in use, radios must be set to the standby channel and at a volume that ensures continuous monitoring.

The requirements provided for in this section do not apply when only one portable locomotive control device is used.

15. When the radio is used to control a switching, the direction of movement and the distance to travel must be indicated in each message.

If no further message is received when the movement has travelled one-half the distance to travel, the locomotive engineer must stop the movement at once.

16. A brakeman and a flagman may not use hand and radio signals simultaneously.

17. Hand signals must be given in accordance with the standards described in Schedule I.

The lantern must be used from sunset to sunrise and when day signals cannot be plainly seen.

18. A hand signal must be given by a flagman from a point where it can be plainly seen by the recipient and in sufficient time before the required action to permit compliance.

19. A signal to move forward or backward must be directly given to a locomotive engineer in relation to the front of the leading engine.

20. A locomotive engineer must regard the following as stop signals:

- (1) a hand signal or a radio signal when the meaning of the signal or its recipient are not clearly defined;
- (2) the signalman or the signal disappears from his view.

21. A locomotive engineer must ring the engine bell at least 20 seconds before it comes to a level crossing and until the engine or the equipment is fully engaged on the level crossing.

Under no circumstances may an engineer cross a level crossing using an engine that does not have an operational bell.

22. The use of the engine whistle or horn by an engineer is authorized only for the purposes of rail communication.

Engine whistles or horn signals must be given by an engineer in accordance with the standards described in Schedule II.

Under no circumstances may an engineer use an engine that does not have an operational engine whistle or horn.

23. Unless he uses a portable locomotive control device, an engineer may not move the engine before he has received the signal or the instructions from a member of his crew. Before the engine moves forward or backward, he must ring the engine bell or, failing that, blow the engine whistle or horn.

24. When equipment is pushed, an engine crew member or a flagman must be on the leading car or near it. That person must observe the track and, if necessary, give the locomotive engineer signals and instructions to control the train movement.

If the engineer uses a portable locomotive control device, he may himself be on the leading car or near it.

Alongside a public highway not protected by a fence or a gate, the person on the leading car or near it must warn users who cross the track or are going to cross it that equipment is arriving.

The requirement provided for in the first paragraph does not apply when equipment is brought into a building intended for unloading scrap metal.

#### **DIVISION V LIGHTS AND SIGNAL SYSTEM**

25. An engine must be equipped with a white headlight at the front.

The headlight must be on at full power when the engine is in movement except when it moves near a public highway, in which case it must be dimmed.

Notwithstanding the second paragraph, the engine headlight must be on at full power when the engine approaches a level crossing until the equipment is fully engaged on the level crossing.

26. An engine that has no white headlight at the back must be equipped with a back-up light.

The engineer must turn on that headlight when the engine moves backward.

27. When the front white headlight of an engine has failed and the engine is equipped with ditch lights, the engineer must turn on those lights.

He must turn off the ditch lights while switching except when used in lieu of the white headlight.

28. To indicate their presence, a member of each class of employees working on or aboard equipment secured on a track must place, at the ends of that equipment, a blue flag by day, coupled with a blue light at night when the flag is not visible.

Equipment may not be placed on the same track and block a clear view of the signal installed in accordance with the first paragraph, unless the engine placing such equipment remains on that track until the signal is relocated to include that equipment with the one to which the signal already applies.

The requirement provided for in the first paragraph does not apply when equipment is placed on a track whose access is prohibited in accordance with subparagraph 1 of the first paragraph of section 56.

The signal provided for in the first paragraph must be set up on staffs at a height that ensures a clear view thereof from the equipment.

29. Only a member of the same class of employees that has displayed the signal is authorized to remove or move it.

30. Before urgent repair work is to be done on the engine or on the equipment coupled to the engine and if the signal provided for in the first paragraph of section 28 is not displayed, the engineer must be notified by a member of each crew.

The engineer must keep the engine at a stop until he has made sure that all the employees have left.

31. A locomotive engineer may not pass the signal referred to in section 28. He is also forbidden to pass a fixed signal or a sign without knowing its meaning.

32. Interlocking signal indications govern the use of the routes and authorize the movement of equipment within a limit, the interlocking limit, which is delimited by opposed interlocking signals located at the ends of the limit.

A locomotive engineer may not enter interlocking limits without having in his possession the safety rules governing the movement within those limits; he must abide by those rules.

#### **DIVISION VI SWITCHES AND DERAILS**

33. A switch must be secured with a lock or a hook after operating its switch points. The lock or the hook must be installed so that the switch may not be operated while the lock or the hook is still in place.

If the switch is equipped with a target, the target must be green when it is set for the normal route and yellow when set for the other route.

34. A person who operates a switch must keep clear of the switch handle while it is being lifted or released.

When a switch has been manually turned, the points must be examined to verify that the switch is properly set.

35. An employee who notices that a switch is damaged must inform the operator thereof so that the latter may prohibit its access until it is repaired.

36. No trailing movement may be reversed.

37. When there is ice or snow, the engineer of a locomotive that is going to pass through a trailing switch must stop so that an engine crew member or the user of the portable locomotive control device can examine the switch points and remove ice or snow thereof, where applicable.

38. An engine crew member or the user of the portable locomotive control device must keep the derails in the derailing position at places where there is any possibility of the equipment that has been left standing on the track moving and causing an accident.

Each derail must be visible and set to derail equipment on the safest side.

Derail fastening devices must keep derails operative at all times. Derails must be locked when they are located at a public place without surveillance.

## **DIVISION VII BRAKE MECHANISMS**

39. A locomotive engineer may not leave equipment on a track if an insufficient number of hand brakes were applied by a brakeman to secure it or, failing that, if it was not secured with brake shoes.

Before coupling equipment to an engine, an engineer must make sure that the equipment is secured in accordance with the first paragraph.

40. A locomotive engineer must verify that everyone aboard or near the equipment has been notified before coupling it to the engine and moving it.

41. Before making a running switch, a locomotive engineer must foresee its course and verify that the switch and hand brakes are in working order.

A running switch must not be made with equipment that is occupied by people or with equipment placarded to indicate the presence of dangerous substances in accordance with section 98. Such a switch must not be made on a spring switch.

42. A locomotive engineer must test the engine brakes before using the engine when it has been laid over for more than eight hours or when it has been altered or repaired.

The test consists in verifying the application and release of the engine brakes.

43. A locomotive engineer must test the engine brakes and the equipment brakes before leaving the industrial production site.

The test consists in verifying the application and release of the engine brakes and, where applicable, of the brakes of the last car and of a sufficient number of equipment brakes to stop the movement.

44. A locomotive engineer may not leave the industrial production site if the train's last car has no operational brakes or if the equipment does not have a sufficient number of brakes to stop the movement, except if all of the following conditions are combined:

(1) the equipment carries no dangerous substances;

(2) the access spur has no level crossing; and

(3) a sufficient number of derails are installed on the access spur to stop any equipment that would uncouple from the train and cause an accident.

45. Under no circumstances may an engineer use an engine that does not have operational brakes.

46. The engine brakes must be maintained by the operator in accordance with the manufacturer's instructions.

47. The test with the portable locomotive control device must verify

(1) that the locomotive brakes apply and release;

(2) that the emergency function is in working order; and

(3) that, should the user of the portable locomotive control device lose control over it, the brakes will apply and cut off the transmission of power to the locomotive traction motors.

The user of the portable locomotive control device must comply with the manufacturer's instructions.

**48.** The brake test referred to in section 43 must be recorded in a register that must be kept on the site by the operator for at least one year from the date of each test.

The register must indicate the date on which the test was performed, the condition of the brakes of the engine and those of the train's last car, the percentage of operational brakes and the engineer's name.

## **DIVISION VIII**

### **CAR AND EQUIPMENT MAINTENANCE**

**49.** The operator must submit each car that moves only on his site or on the track leading to his site to a yearly safety check carried out by a person who has the knowledge, training and experience necessary to detect defects in car equipment referred to in sections 50 to 54.

That person must fill out a check record for each car that has been checked, indicating the nature of the anomalies detected, the corrective measures taken, the date of the check, and sign it. The operator must keep the check record on the site for at least two years from the date of the check.

**50.** Before authorizing a car to be loaded, the rail operating supervisor must have it visually checked for the purposes of detecting one of the following anomalies:

- (1) a component lies about under the car body or juts out on one side of the car body;
- (2) a door or a coupler is not properly fixed; or
- (3) a wheel is broken or very cracked.

Where one of those anomalies is detected, the car must be removed from service until repaired.

**51.** The supervisor must remove from service, until it is repaired, a car that shows one of the following defects:

- (1) a wheel rim, flange, plate or hub has a crack or is broken;
- (2) an axle has a crack or is bent or broken;
- (3) a roller bearing has damaged external parts that are cracked, broken or bent;

(4) a roller bearing adapter is missing, cracked or broken; or

- (5) a truck bolster or side frame is broken.

**52.** The supervisor must remove from service, until it is repaired, a car that shows one of the following defects:

- (1) the centre sill is broken or, in the case of a tank car, the stub sill has a crack in the parent metal;
- (2) a cross bearer or a body bolster is broken;
- (3) the centre plate is broken;
- (4) at least two door stops are missing or broken;
- (5) safety hangers on sliding or plug doors are missing or damaged; or
- (6) sliding or plug doors are off the rails.

Also, a flat car with lading restraining devices worn or damaged to the extent that these devices will not restrain the load must be removed from service. Likewise, a car that has an object on its floor that is not properly secured and could fall off must be removed from service.

**53.** The supervisor must remove from service, until it is repaired, a car that shows one of the following defects:

- (1) a coupler shank is bent out of alignment to the extent that the coupler will not couple automatically;
- (2) a coupler yoke is broken;
- (3) a draft key or a draft key retainer is inoperative or missing;
- (4) a vertical coupler pin retainer plate or a follower plate is missing or broken;
- (5) a coupler knuckle is broken or cracked on the inside pulling face of the knuckle; or
- (6) a coupler pin retainer is missing or broken.

**54.** Car ladders must be equipped with steps or rungs placed at a height of no more than 60 cm (24 in.) above the rails and set back at 10 cm (4 in.) or less from the side.

The ladders must be equipped with an additional step where the step or rung is placed at a height of more than 50 cm (20 in.) above the rails.

## **DIVISION IX**

### **TRACK MAINTENANCE STANDARDS**

**55.** Before starting any maintenance work on a track, the foreman who is in charge of it must inform the rail operating supervisor thereof.

**56.** Before starting any maintenance work on a track, the foreman who is in charge of it must protect the track as follows:

(1) each switch must be locked with a padlock, to which he is the only one to have the key, in the position which prevents access to the track in question; or

(2) place a stop signal, between the rails, at the ends of the working limits; the signal consists of a red flag and a monitoring system.

The signal referred to in subparagraph 2 of the first paragraph must be set up on staffs at a height that ensures a clear view thereof from the equipment. It may not be removed without the foreman's authorization.

**57.** Placing equipment that would block a clear view of the signal referred to in section 56 is prohibited, unless the engine remains on the track until the signal is moved to include such equipment in the new limits being protected.

**58.** A locomotive engineer may not pass the stop signal referred to in subparagraph 2 of the first paragraph of section 56.

**59.** Each semester and before allowing the movement of trains after fire, flood, earthquake, storm or other occurrence which might have damaged the track structure, the rail transport system operator must have a visual inspection of the tracks in service undertaken by a person who has the knowledge, training and experience necessary to detect the defects in the track referred to in sections 60 to 82.

Inspections must be made on foot or on equipment. Notwithstanding the foregoing, turnouts and railway crossings must be inspected on foot.

The identification of the track inspected, the location and nature of any anomalies, the corrective measures taken, the date of inspection and the name of the person who carried out the inspection must all be recorded in an inspection register and kept on the site by the operator for at least two years from the date of inspection.

**60.** Each drainage must be maintained to accommodate expected water flow alongside the track.

**61.** Rail gauge must be more than 142.24 cm (4 ft., 8 in.) and no less than 147.32 cm (4 ft., 10 in.).

Rail gauge is measured between the heads of the rails at right-angles to the rails in a plane 1.59 cm (5/8 in.) below the top of the rail head.

**62.** Alignment, in relation to uniformity, measured from an 18.9-m (62 ft.) chord may not exceed 12.7 cm (5 in.).

When the track is tangent, the ends of the chord must be placed at points on the gauge side of the rail, 1.59 cm (5/8 in.) below the top of the rail head. Either rail may be used, however, the same rail must be used for the full length of that segment.

When the track is curved, the ends of the chord must be placed at points on the gauge side of the outer rail, 1.59 cm (5/8 in.) below the top of the rail head.

**63.** The outside rail of a curve may not be lower than the inside rail or have more than 15.24 cm (6 in.) of elevation.

**64.** Track surface must comply with the following requirements:

(1) the runoff in any 9.45 m (31 ft.) of rail at the end of a raise may not be more than 8.89 cm (3 1/2 in.);

(2) the deviation from uniform profile on any rail at the mid-ordinate of an 18.9-m (62 ft.) chord may not be more than 7.62 cm (3 in.);

(3) deviation from designated elevation on spirals may not be more than 4.44 cm (1 3/4 in.);

(4) variation in cross level on spirals in any 9.45 m (31 ft.) may not be more than 5.08 cm (2 in.);

(5) deviation from zero cross level at any point on tangent or from designated elevation on curves between spirals may not be more than 7.62 cm (3 in.); and

(6) the difference in cross level between any two points less than 18.9 m (62 ft.) apart on tangents and curves between spirals may not be more than 7.62 cm (3 in.).

**65.** The track must be supported by base material that will provide drainage for the track.

**66.** Any 11.88-m (39 ft.) segment shall have five evenly spread cross-ties; they shall not be:



(1) broken through;

(2) split or otherwise impaired to the extent the crossties will allow the ballast to work through, or will not hold spikes or rail fasteners;

(3) so deteriorated that the tie plate or base of rail can move laterally more than 1.27 cm ( $1/2$  in.) related to the crosstie;

(4) cut by the tie plate through more than 40 % of a tie's thickness; and

(5) damaged by derailment, components lying about or fire so that the ties cannot ensure maintenance of the track surface, gauge or alignment.

**67.** For the purposes of sections 61 to 64 and paragraph 3 of section 66, the amount of rail movement that occurs while the track is loaded must be added to the measurements of the unloaded track.

**68.** Tracks shall have at least one crosstie, having no one of the defects referred to in section 67, whose centreline is within 60 cm (24 in.) of the rail joint location.

**69.** The rail operating supervisor must stop equipment movement as long as one of the following defects still remains on the rail:

(1) compound transverse fissure or engine burn fracture that affects rail head cross-sectional area at 100 %;

(2) vertical split head;

(3) head web separation;

(4) bolt hole crack extending to the rail head;

(5) broken base more than 15.24 cm (6 in.); or

(6) ordinary break.

Notwithstanding the first paragraph, equipment movement is authorized provided that a person designated by the operator is in charge of it.

Applying joint bars may be a remedial action to the defects referred to in subparagraphs 1, 5 and 6 of the first paragraph.

**70.** Any mismatch of rails at joints may not be more than 0.63 cm ( $1/4$  in.).

**71.** Each rail joint must be of the proper design and dimensions for the rail on which it applies.

**72.** Each joint bar must be held in position by at least one track bolt on each rail tightened to allow the joint bar to firmly support the rails and to allow longitudinal movement of the rail in the joint.

**73.** Any joint bar that is cracked or broken between the middle two bolt holes must be replaced.

The operator may not use a rail or joint bar having a hole made by a thermal process.

**74.** A sufficient number of rail anchoring devices shall be applied to provide adequate longitudinal restraint.

Anchoring devices must be evenly spaced on the length of the rail and on the same side of the crosstie on both rails.

**75.** Rails must be kept in place by a sufficient number of fastenings to ensure gauge.

**76.** In turnouts and crossings of two railway lines,

(1) the fastenings must be maintained so as to keep the components securely in place;

(2) track alignment, surface and gauge must be maintained;

(3) each switch, frog and guard rail must be kept free of obstructions that may interfere with the passage of equipment wheels; and

(4) each flangeway must be clean and at least 3.81 cm ( $1\ 1/2$  in.) and no more than 5.08 cm (2 in.) and at least 3.81 cm ( $1\ 1/2$  in.) deep.

**77.** Each stock rail must be securely seated in switch plates, but care must be used to avoid canting the rail by overtightening the rail braces.

**78.** Each switch point must fit its stock rail properly, with the switch stand in either of its closed positions.

**79.** The flange depth measured from the wheel-bearing area of a frog may be at least 3.49 cm ( $1\ 3/8$  in.).

**80.** The outer edge of a wheel tread may not contact the gauge side of a spring wing rail.

The toe of each wing rail must be tightly bolted. Each spring must have a tension sufficient to hold the wing rail against the point rail.

The clearance between the hold-down housing and the horn may not be more than 0.63 cm ( $1/4$  in.).

Each frog with a bolt hole defect or head-web separation must be replaced.

**81.** The raised guard on a self-guarded frog may not be worn more than 0.95 cm (3/8 in.).

If repairs are made to a self-guarded frog without removing it from service, the guarding face must be restored before rebuilding the point.

**82.** The distance between the point and the active face of the guard rail may not be less than 137.48 cm (4 ft., 6 1/8 in.).

## **CHAPTER II**

### **RAIL SAFETY AT LEVEL CROSSINGS**

#### **DIVISION I**

##### **OBJECT**

**83.** This Chapter governs level crossings within the meaning of paragraph 2 of section 1 of the Act to ensure safety in guided land transport and in the cases provided for in the second paragraph of section 18 of that Act.

#### **DIVISION II**

##### **SIGNS**

**84.** Level crossing signs must comply with those described in Schedule III and indicate the number of tracks where the road crosses two tracks or more. The mileage point of the level crossing must be indicated on the back of one of the signs.

Those signs must be covered, over their surface, with a silver white colour that complies with Standard 62-GP-11M, Reflectivity Level 1 or better. Their reflectivity must never be less than 50 % of its initial value. The border must be drawn with transparent red ink by serigraphy. The number and illustration of tracks must be in black or drawn with transparent red ink by serigraphy.

In addition, those signs must be erected in accordance with Schedule IV. Where the distance, measured along the public road between the centre lines of two adjacent tracks, is more than 30 m (100 ft.), each level crossing is considered as distinct.

#### **DIVISION III**

##### **MOVEMENT RULES**

**85.** The locomotive engineer shall appoint a member of his crew to provide protection of a level crossing before passing over it when

(1) the level crossing is not protected by a watchman, a flagman or gates and the locomotive engineer cannot plainly see it;

(2) the level crossing automatic warning device is defective; or

(3) the level crossing is equipped with an automatic warning device and the equipment must make a reverse movement after it has passed over the level crossing without activating the automatic warning device again.

An engineer may not enter the level crossing with the leading car before he has received the signal to pass over it from the appointed person.

**86.** The person appointed by an engineer must be at a place from where he may observe the level crossing and give signals and instructions to the engineer as necessary.

With hand signals, he must stop vehicular and pedestrian traffic to allow the equipment to pass over the level crossing. He must stay at that place until the level crossing is fully occupied with the equipment.

**87.** When switching near a level crossing, the engineer may not allow any equipment to stand on whole or part of the level crossing, for a period longer than five minutes, when vehicular or pedestrian traffic requires passage.

When emergency vehicles with flashing lights or revolving beacons in operation require passage, he must take all measures to clear the level crossing.

**88.** A locomotive engineer may not leave equipment standing within 30 m (100 ft.) of a level crossing.

The first paragraph does not apply when equipment is left standing for purposes of loading or unloading or when a gate prevents the equipment's access to the level crossing.

**89.** A locomotive engineer may not place equipment at a place where it causes the unnecessary operation of an automatic warning device.

**90.** The boxes containing the automatic warning device manual control must be closed and locked when they are not in use.

## **CHAPTER III**

### **TRANSPORTATION OF DANGEROUS SUBSTANCES**

#### **DIVISION I**

##### **OBJECT AND INTERPRETATION**

**91.** This Chapter governs the transportation of dangerous substances by railway and their handling.

92. Paragraph 1 of section 2.1, sections 2.1.2, 2.3 to 2.4.2, paragraphs 1 and 3 of section 2.5 and sections 2.6 to 2.8, 2.16 to 2.19.2 and 2.33 to 2.35 of the Transportation of Dangerous Goods Regulations shall apply, *mutatis mutandis*, to the handling and transportation of dangerous substances.

93. In this Regulation, the Transportation of Dangerous Goods Regulations means the Regulation respecting the handling, offering for transport and transporting of dangerous goods made under the Transportation of Dangerous Goods Act (1985) 119 *Can. Gaz.* II, 393, and amended by the Regulations made under that Act and in the Consolidated Index of Statutory Instruments, updated to 31 December 1999, *Canada Gazette* Part II.

94. The words and expressions appearing in the Transportation of Dangerous Goods Regulations have the meaning prescribed in those Regulations or in the Transportation of Dangerous Goods Act, 1992 (1992, 40-41 Elizabeth II, c. 34) except in the following cases where:

“inspector” means any person authorized by the Minister of Transport to act as an inspector for the purposes of this Regulation;

“handling” means, regardless of the facilities where it takes place, loading, unloading, containerizing or packing of dangerous substances carried by railway or to be carried.

In subparagraph *b* of the first paragraph of section 5.41 and in sections 7.16, 7.19 and 9.14 of those Regulations, “Director General” means the Director of safety in transport of the Ministère des Transports du Québec.

For the purposes of section 4.10 of the Transportation of Dangerous Goods Regulations, the words “CANUTEC (613) 996-6666” are preceded by the words “local police and”.

## DIVISION II CLASSIFICATION

95. Each substance designated as a dangerous good, by an individual or a collective designation, in the Transportation of Dangerous Goods Regulations, is designated as a dangerous substance.

96. Dangerous substances must be classified according to Part III of the Transportation of Dangerous Goods Regulations.

A reference to a class of the Schedule to the Transportation of Dangerous Goods Act, 1992 is a reference to the following classification:

**Class 1:** Explosives, including explosives within the meaning of the Explosives Act (R.S.C., 1985, c. E-17);

**Class 2:** Gases: compressed, deeply refrigerated, liquefied or dissolved under pressure;

**Class 3:** Flammable and combustible liquids;

**Class 4:** Flammable solids; substances liable to spontaneous combustion; substances that on contact with water emit flammable gases;

**Class 5:** Oxidizing substances; organic peroxides;

**Class 6:** Poisonous (toxic) and infectious substances;

**Class 7:** Radioactive materials and radioactive prescribed substances within the meaning of the Atomic Energy Control Act (R.S.C., 1985, c. A-16);

**Class 8:** Corrosives;

**Class 9:** Miscellaneous products, substances or organisms included in this class by List II of Schedule II to the Transportation of Dangerous Goods Regulations.

## DIVISION III DOCUMENTATION

97. The documentation prescribed in Part IV of the Transportation of Dangerous Goods Regulations must accompany dangerous substances in accordance with the provisions of those Regulations.

Notwithstanding the foregoing, the shipping document referred to in section 4.4 of those Regulations may be substituted for the manifest prescribed and, in such a case, paragraph *c* of section 4.15 and paragraph *b* of section 4.18 of those Regulations do not apply.

## DIVISION IV SAFETY MARKS

98. The safety marks prescribed in Part V of the Transportation of Dangerous Goods Regulations must be affixed in accordance with the provisions of those Regulations.

## DIVISION V SAFETY STANDARDS AND REQUIREMENTS

99. The provisions of sections 6.1 to 6.8, 7.1 to 7.8, 7.16 to 7.19, 7.21 to 7.32, 7.32.2, 7.32.3, 7.33, 7.33.2, 7.33.3 to 7.39.1, 7.41 to 7.50, 8.1, 8.3 and 8.4.1 to 8.26 of the Transportation of Dangerous Goods Regulations shall apply during transportation and handling of dangerous substances.

100. The person who looks after or puts somebody in charge of a railway vehicle or a container used for the purposes of the transportation of a dangerous substance must observe the standards provided for in section 9.2, subparagraph *a* of the first paragraph of section 9.3, sections 9.7 and 9.10, paragraph 2 of section 9.11, paragraphs *a*, *b*, *e* and *g* of section 9.13 and section 9.14 of the Transportation of Dangerous Goods Regulations.

101. The Certificate of Training referred to in subparagraph *a* of the first paragraph of section 9.3 of the Transportation of Dangerous Goods Regulations is valid for a 36-month period calculated according to paragraphs 2 and 3 of section 9.4 of the Transportation of Dangerous Goods Regulations.

The document referred to in subparagraph *b* of the first paragraph of section 9.3 of those Regulations may be substituted for the Certificate of Training provided for in subparagraph *a* of the first paragraph of that section concerning transportation and handling of dangerous substances to which it refers.

#### **DIVISION VI RESPONSIBILITIES OF THE SHIPPER**

102. Sections 2.33 and 2.35 of the Transportation of Dangerous Goods Regulations shall apply to a person who requires the transportation of a dangerous substance.

103. Sections 97 and 98 shall apply to a person who requires the transportation of a dangerous substance.

104. Sections 7.1 to 7.8, 7.16 to 7.19, 7.21 to 7.32.2, 7.32.3, 7.33.3 to 7.39.1, 7.47 and 7.49 of the Transportation of Dangerous Goods Regulations shall apply to a person who requires the transportation of a dangerous substance.

105. Paragraphs *a*, *b*, *e* and *g* of section 9.13 of the Transportation of Dangerous Goods Regulations shall apply to a person who requires the transportation of a dangerous substance.

#### **CHAPTER IV ANNOUNCEMENT OF WORKS AND REPORTS**

106. The works that must be announced in accordance with section 5 of the Act to ensure safety in guided land transport are the following:

(1) the construction of or alteration to a track requiring the acquisition of land added to the location of a track;

(2) the construction of or alteration to a railway line that may have an influence on the drainage of adjoining land on the location of a track.

The announcement must be made through a notice published in a daily newspaper and in a weekly newspaper delivered in the territory where the works will be carried out.

The period during which one may oppose the works shall be of no less than 60 days.

107. The traffic report referred to in section 49 of the Act must be written according to the tenor provided for in Schedule V.

The report must be transmitted every year, before 1 March, and it must contain the data, according to either of the units of measure provided for in that Schedule, for the preceding year's operations.

108. The accident report referred to in section 44 of that Act must be written according to the tenor provided for in Schedule VI.

The operator is exempted from notifying the Minister and from producing an accident report in any of the following cases:

- (1) no equipment was involved in the accident; or
- (2) the accident happened in a workshop.

#### **CHAPTER V PENAL**

109. Any contravention of the provisions of the first paragraph of section 3, sections 6, 8, 10 to 13, the first and second paragraphs of section 14, the second paragraph of section 15, sections 16, 18, 21 to 23, the first and third paragraphs of section 24, the second paragraph of section 25, the second paragraph of section 26, section 27, the first paragraph of section 28, sections 29 to 31, the second paragraph of section 32, sections 34, 35, 37, the first paragraph of section 38, sections 39 to 46, the second paragraph of section 47, sections 49 to 53, 55 to 59, section 69, the second paragraph of section 73, sections 85 to 87, the first paragraph of section 88, section 89 and sections 97 to 100 constitutes a violation.

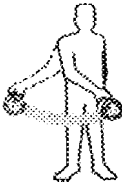





110. Any contravention of one of the safety rules provisions approved or imposed by the Minister under Division III of Chapter IV of the Act to ensure safety in guided land transport and concerning one of the subjects referred to in the Rail safety code constitutes a violation.

111. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

**SCHEDULE I**

(S.17)

**HAND SIGNALS**

Signal	Presentation	Indication
(1) 	Hand, flag or lantern swung from side to side at right angle to the track.	Stop
(2) 	Hand, flag or lantern swung in a circle at right angle to the track at a speed in proportion to the speed required.	Move backward
(3) 	Hand, flag or lantern raised and lowered at a speed in proportion to the speed required.	Move forward
(4) 	Hand, flag or lantern held horizontally at arm's length.	Reduce speed
(5) 	Hand, flag or lantern raised and swung horizontally above the head, at right angle to the track when standing.	Apply air brakes
(6) 	Hand, flag or lantern raised and held at arm's length above the head when standing.	Release air brakes

Any object waved violently by anyone on or near the track is a signal to stop.

**SCHEDULE II**

(S. 22)

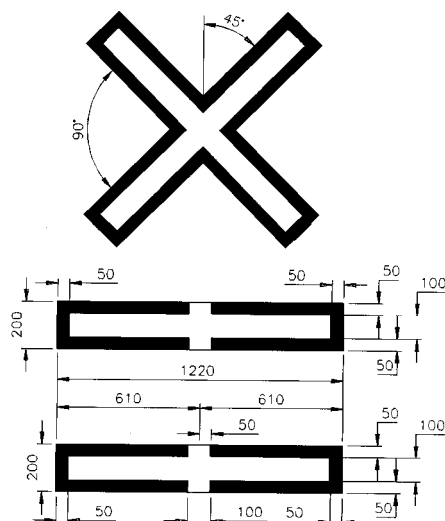
**WHISTLE OR HORN SIGNALS****Sound****Indication**

- |     |                            |   |
|-----|----------------------------|---|
| (1) | o                          | Stop signal. Braking system is equalized; angle cock may be closed and the cars may be uncoupled.   |
| (2) | oo                         | (a) Answer to a “stop” signal (except a fixed signal).<br>(b) Answer to any signal not otherwise provided for.<br>NOTE: <i>b</i> is not applicable when switching.  |
| (3) | oooo                       | Call for signals;   |
| (4) | Succession of short sounds | Alarm for persons or animals on or near the track.  |
| (5) | _ _ o _                    | (a) At every whistle sign.<br>(b) At least 20 seconds of every level crossing, to be prolonged or repeated until the level crossing is fully occupied by the engine or cars pushed.<br>(c) At frequent intervals when view is restricted by weather, curvature or other conditions. |

Signals are illustrated by “o” for short sounds; “\_” for longer sounds.

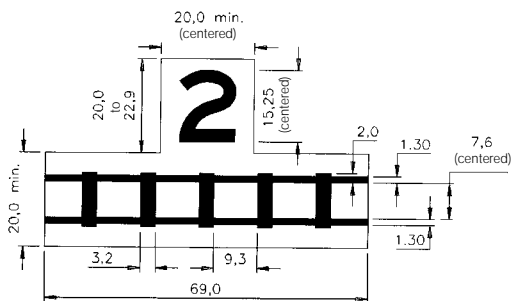
**SCHEDULE III**

(S. 84)

**CONFORMITY OF LEVEL CROSSING SIGNS**

A - LEVEL CROSSING SIGN

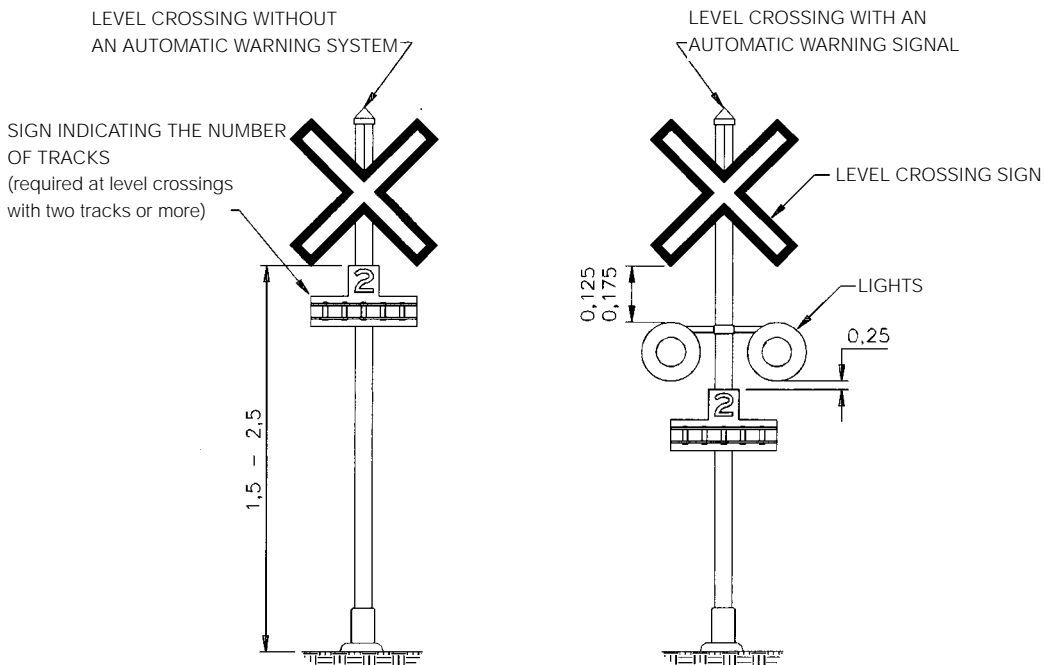
NOTE: The dimensions are in millimetres.

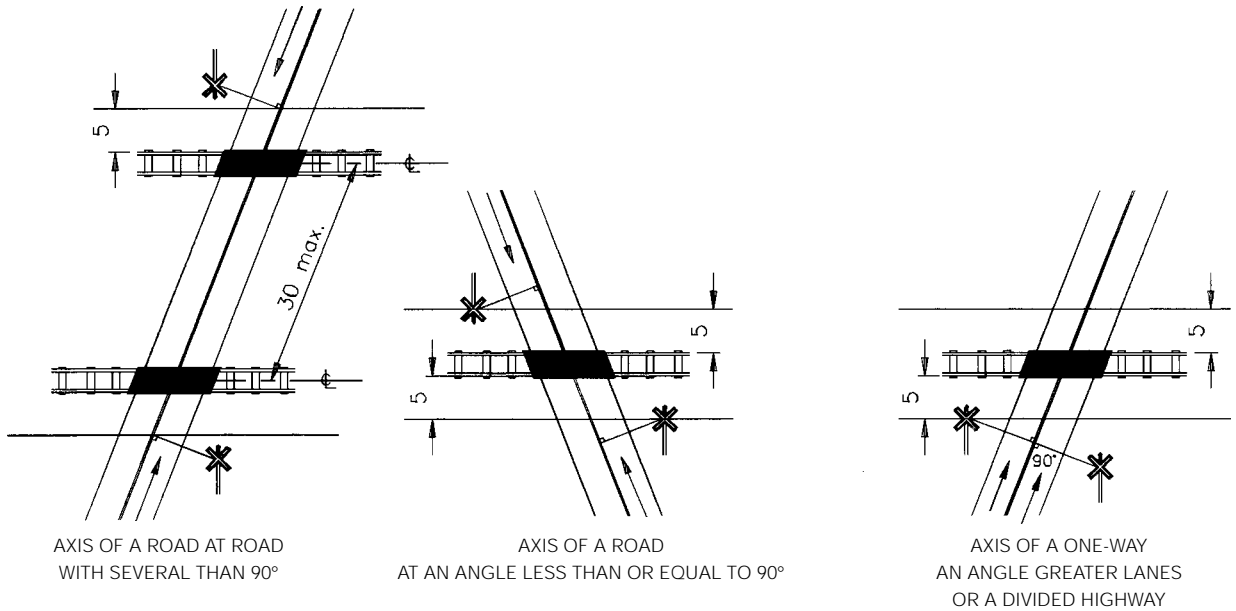


B-SIGN INDICATING THE NUMBER OF TRACKS  
 (required at level crossings with two tracks or more)  
 NOTE: The dimensions are in centimetres.

**SCHEDULE IV**  
 (S. 84)

**ERECTION OF LEVEL CROSSING SIGNS**





NOTE: The dimensions are in metres.

**SCHEDULE V**

(S. 107)

**TRAFFIC REPORT**

OPERATOR'S NAME: \_\_\_\_\_

YEAR: \_\_\_\_\_

DESCRIPTION	METRIC UNITS	IMP. UNITS
<b>TRACKS</b>		
1 Length of operated network	km	miles
2 Length of main tracks	km	miles
<b>EQUIPMENT IN SERVICE</b>		
3 Engines in service	units	units
4 Cars	units	units
<b>SHIPPING</b>		
5 Shipped tons	tonnes	tons
Main goods shipped by category		
a)	tonnes	tons
b)	tonnes	tons
c)	tonnes	tons
d)	tonnes	tons
<b>RECEIPT</b>		
6 Tons received	tonnes	tons
Main goods received by category		



a)	tonnes	tons
b)	tonnes	tons
c)	tonnes	tons
d)	tonnes	tons

**OPERATION PARAMETERS**

7	Tons carried	tonnes	tons
8	Total gross ton-km or gross ton-miles	tonne-km	ton-miles
9	Total train-km or train-miles	train-km	train-miles
10	Gross tonnage per train	tonnes	tons
11	Loaded cars	units	units
12	Unloaded cars	units	units
13	Passengers carried	number	number
14	Passenger-km or passenger-miles	passenger-km	passenger-miles
15	Railway employees	persons-years	persons-years
16	Fuel consumed by motive power units	litres	gallons

**SCHEDULE VI**

(S. 108)

**ACCIDENT REPORT**

Operator: \_\_\_\_\_  
 No. of train or other equipment: \_\_\_\_\_ Direction: \_\_\_\_\_  
 Place of the accident: \_\_\_\_\_ Mileage point \_\_\_\_\_ Station: \_\_\_\_\_  
 Date: \_\_\_\_\_ Time: \_\_\_\_\_ Engine no.: \_\_\_\_\_  
 Train gross tonnage: \_\_\_\_\_ Number of cars: \_\_\_\_\_ Loaded cars: \_\_\_\_\_  
 Conductor: \_\_\_\_\_ Engineer: \_\_\_\_\_

Description of the accident: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Number of victims: Killed: \_\_\_\_\_ Injured: \_\_\_\_\_  
 Status of the victims (passenger, employee, other): \_\_\_\_\_

Apparent causes of the accident: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Investigation to come: Yes: \_\_\_\_\_ No: \_\_\_\_\_  
 Other observations: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Signature (name, address and position or title of the writer of the report): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

## Draft Regulation

Environment Quality Act  
(R.S.Q., c. Q-2)

### Recovery and reclamation of used oils, oil containers and used oil filters

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1) and section 124 of the Environment Quality Act, that the Regulation respecting the recovery and reclamation of used oils, oil containers and used oil filters, the text of which appears below, may be made by the Government upon the expiry of 60 days following this publication.

The purpose of the proposed Regulation is to require any business that markets, in Québec, oils or oil filters under a trademark which it owns or uses to offer a service for the recovery of the discarded used oils, oil containers and used oil filters for their reclamation. Such a business may be exempted from that requirement if it becomes a member of an organization the function or one of the functions of which is either to implement a recovery and a reclamation system or to financially contribute to the implementation of such a system in accordance with the conditions determined by agreement between the organization and the Minister, and if the name of the organization appears on a list drawn up by the Minister and published in the *Gazette officielle du Québec*.

The proposed Regulation also requires any business that acquires oils or oil filters for its own use from outside Québec to recover and reclaim the used oils, oil containers and used oil filters that it discards after using those products.

For any information regarding the draft Regulation respecting the recovery and reclamation of used oils, oil containers and used oil filters, please contact Mr. Gilbert Tremblay, ministère de l'Environnement, 675, boulevard René-Lévesque Est, 8<sup>e</sup> étage, Québec (Québec) G1R 5V7, telephone: (418) 521-3885, extension 4887.

Any interested person having comments to make on the draft Regulation is asked to send them in writing, before the expiry of the 60-day period, to the Minister of the Environment, Édifice Marie-Guyart, 30<sup>e</sup> étage, 675, boulevard René-Lévesque Est, Québec (Québec) G1R 5V7.

PAUL BÉGIN,  
*Minister of the Environment*

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## Regulation respecting the recovery and reclamation of used oils, oil containers and oil filters

Environment Quality Act  
(R.S.Q., c. Q-2, s. 53.28, par. 4, ss. 53.30, 70.19, 1st par., subpar. 15 and s. 109.1; 1999, c. 40, s. 239; 1999, c. 75, s. 13)

1. The purpose of this Regulation is to reduce the quantity of residual materials to be eliminated by encouraging the recovery and reclamation of discarded used oils, oil containers and used oil filters.

2. This Regulation shall apply to any mineral or synthetic oil used for:

- lubrication;
- heat insulation or transfer in motorized vehicles or equipment;
- the operation of hydraulic systems, transmission, power steering or brakes.

For the purposes of this Regulation, any fluid or liquid used for any of the purposes outlined in the first paragraph is deemed to be an oil.

3. Any business that markets oils under a trademark which it owns or uses is required, through a recovery system that includes the minimum specifications described in the Schedule, to recover or to see to the recovery of the used oils and oil containers that have been deposited at the collection points provided for by that system and that are of the same type as the oils and containers that it markets. That business is also required to recover or to see to the recovery of any container or packaging used in the transport of those oils to the collection points.

4. Any business that markets oil filters under a trademark which it owns or uses is required, through a recovery system that includes the minimum specifications described in the Schedule, to recover or to see to the recovery of the used oil filters that have been deposited at the collection points provided for by that system and that are of the same type as the oil filters it markets. That business is also required to recover or to see to the recovery of any container or packaging used in the transport of those filters to the collection points.

For the purposes of this section, diesel oil filters and light heating oil heating system filters are deemed to be oil filters.

“light heating oil” means heating oil that, in accordance with the terms of the Petroleum Products Regulation made by Order in Council 753-91 dated 29 May 1991, is a distillate fuel intended for home heating appliances.

5. Where a business referred to in section 3 or 4 does not have a domicile or a place of business in Québec, the recovery obligations prescribed by those sections shall be the responsibility of the leading supplier in Québec of the products provided for therein, whether or not it is the importer.

6. A business or supplier subject to the recovery obligations prescribed by section 3 or 4 must take the appropriate measures to inform consumers of the existence and operation of the recovery system outlined in those sections, particularly the accessibility of the collection points, as well as the environmental advantages resulting from the recovery and reclamation of discarded used oils, oil containers and used oil filters.

7. A business that acquires oils or oil filters for its own use from outside Québec is required to recover or to see to the recovery of all used oils, oil containers and used oil filters that it discards after using those products.

8. The recovery system prescribed by section 3 must ensure a minimum rate of recovery of used oils that equals, in weight, the following percentages, calculated on the basis of the oils that the business or supplier markets annually:

- 65 %, as of 2002;
- 70 %, as of 2005;
- 75 %, as of 2008.

For the above calculations, any oil that is wasted or lost upon use shall not be counted in the quantities of oil marketed annually.

The recovery system must also ensure a minimum rate of recovery of oil containers that equals, in weight, the following percentages, calculated on the basis of the oil containers that the business or supplier markets annually:

- 25 %, as of 2002;
- 50 %, as of 2005;
- 75 %, as of 2008.

9. The recovery system prescribed by section 4 must ensure a minimum rate of recovery of used oil filters that equals, in weight, the following percentages, calculated on the basis of the oil filters that the business or supplier markets annually:

- 25 %, as of 2002;
- 50 %, as of 2005;
- 75 %, as of 2008.

For the above calculations, the recovered filters must be drained of all freely dripping oil.

10. The business or supplier subject to the recovery obligations prescribed by section 3, 4 or 7 is also required to reclaim or to see to the reclamation of any oils that it recovered or had recovered.

The business or supplier is subject to the same obligations in respect of recovered oil containers and oil filters in so far as their reclamation is technically possible and the costs are reasonable.

11. Oil containers or oil filters marketed by businesses or suppliers subject to the recovery obligations prescribed by sections 3 or 4 must contain, in a noticeable manner, information on the recoverability of discarded used oils, oil containers and used oil filters.

12. Within 90 days of the date on which it became subject to the recovery obligations prescribed by sections 3 or 4, the business or supplier is required to transmit the following information to the Minister of the Environment:

(1) its name and address, its registration if it is registered in the register of sole proprietorships, partnerships and legal persons, as well as the names and addresses of its managers;

(2) the name of the territory where it markets the oil and oil filters;

(3) identification of the products marketed according to the types of oil, oil containers or oil filters;

(4) a description of the recovery system by which it recovers or sees to the recovery of the products in question, particularly the number and location of the collection points, the name and address of the person responsible for the system if that person is a third party, and the terms and conditions of transport, storage and processing of the recovered products according to the different types of oil, containers, packaging or oil filters;

(5) a description of the information campaigns and other measures planned to promote the recovery and reclamation of the products in question to consumers and to obtain their cooperation;

(6) a presentation of the means implemented for the reclamation of the recovered products, among others the reclamation methods used, the name and address of the person responsible for the reclamation if that person is a third party, the efforts planned to develop the markets or techniques of reclamation or the markets for reclaimed products;

(7) a presentation of the elimination methods planned for the recovered products that are not reclaimed, if any, indicating the name and the address of the person responsible for the elimination if that person is a third party.

Except for subparagraphs 2 and 5, this section shall apply equally, *mutatis mutandis*, to any business subject to the recovery obligation prescribed by section 7.

**13.** No later than on 31 March of each year, the business or supplier subject to the recovery obligations prescribed in section 3 or 4 must transmit to the Minister the following information for the preceding calendar year:

(1) the quantities, in weight, of each type of oil, containers, packages or oil filters in question that were recovered and then reclaimed or, if any, the quantities, in weight, that were eliminated because of a lack of reclamation alternatives, with an indication of the reclamation or elimination methods used;

(2) the steps taken to promote the development of techniques for the reclamation of recovered oils, oil containers and oil filters, particularly for the purposes of reuse and recycling, and the results of the research carried out;

(3) a description of the information campaigns carried out and the other measures taken to promote the recovery and reclamation of discarded used oils, oil containers and used oil filters;

(4) the costs generated by the implementation of the recovery system and reclamation methods as well as those resulting from the carrying out of the information campaigns and other measures taken to promote the recovery and reclamation of the products in question;

(5) an update, if applicable, of the information transmitted to the Minister pursuant to section 12.

The information referred to in subparagraphs 1, 2 and 4 of this section must be verified by a third party expert who shall acknowledge it, as the case may be. Such acknowledgement must be sent together with the information transmitted to the Minister.

In addition, the annualized data of the business or supplier on the quantities of oil, oil containers or oil filters marketed, according to the different types of oil, containers or filters, must remain at the disposal of the Minister.

Except for subparagraph 3, this section shall apply, *mutatis mutandis*, to any business subject to the recovery obligation prescribed by section 7.

**14.** A business or supplier is exempt from the obligations prescribed in sections 3, 4, 6 and 8 to 13 if that business or supplier is a member of an organization:

(1) whose function or one of its functions is either to implement a recovery or a reclamation system for discarded used oils, oil containers and used oil filters or to financially support the implementation of such a system in accordance with the conditions fixed by an agreement entered into between that organization and the Minister;

(2) whose name appears on a list drawn up by the Minister and published in the *Gazette officielle du Québec*.

**15.** Any offence against any of the provisions of sections 3, 4 and 6 to 11 makes the offender liable:

(1) in the case of a natural person, to a fine from \$2 000 to \$25 000;

(2) in the case of a legal person, to a fine from \$5 000 to \$250 000.

**16.** Whoever fails to transmit the information prescribed by section 12 or 13 to the Minister, or transmits false or inexact information is liable:

(1) in the case of a natural person, to a fine from \$1 000 to \$10 000;

(2) in the case of a legal person, to a fine from \$2 000 to \$50 000.

**17.** In the case of a subsequent offence, the fines prescribed in sections 15 and 16 shall be doubled.

**18.** This Regulation comes into force upon the expiry of the sixth month following the month in which it

is published in the *Gazette officielle du Québec*, except for section 11 which comes into force upon the expiry of the eighteenth month following that publication.

## **SCHEDULE**

(ss. 3 and 4)

The recovery system outlined in sections 3 or 4 must be established in a way that offers a recovery service to the residents of each urban community or regional county municipality located south of the 51<sup>st</sup> parallel, excluding unorganized territories, in which the business or supplier markets oils or oil filters.

The recovery system must include collection points where the following items may be deposited free of charge: used oils, oil containers or used oil filters that are of the same type as the oils and oil filters marketed by the business or supplier subject to this Regulation, and any container or packaging used to transport those products.

Each collection point must have a permanent depot accessible year round during business hours and for a period of at least 24 hours per week in which at least 6 of those hours are during the weekend. The minimum number of collection points that must be included in the recovery system and their locations shall be determined according to the option chosen by the business or supplier in question.

### **BUSINESS' OR SUPPLIER'S OPTIONS**

(number and location of collection points)

#### **Option 1**

For each business of a local municipality marketing oils or oil filters the trademark of which the business or supplier in question owns or uses, there must be a collection point located on the territory of that municipality. The collection points may be located either at each of those businesses or at any other location within a 5 km radius, by roads usable by motor vehicles year round, from each of those businesses.

#### **Option 2**

For each local municipality belonging to an urban community or a regional county municipality for which a recovery system must be established, the number of collection points shall be established according to the number of residents in the municipality, that is, a collection point for each section of not more than 25 000 residents, up to 30 collection points per municipality. Those collection points must be located on the territory of the municipality.

For a local municipality whose population includes less than 5 000 residents, the collection point may or may not be located on the territory of the municipality provided that it is in all cases located less than 30 km, by roads usable by motor vehicles year round, from the town hall of that municipality.

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## Erratum

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Bill 53  
(1999, chapter 34)

**An Act respecting the Corporation d'hébergement  
du Québec**

*Gazette officielle du Québec*, Part 2, 28 July 1999,  
Volume 131, No. 30, page 2228.

Due to an error in the execution of the motion to renumber Bill 53 of 1999, duly adopted by the National Assembly on 17 June 1999, the text of section 8 of the Act respecting the Corporation d'hébergement du Québec (1999, chapter 34), published in issue number 30 of the *Gazette officielle du Québec*, Part 2, p. 2228, and in the annual volume of the Statutes of Québec for 1999, is published anew and shall read as follows:

“8. Subsidiaries all of whose shares are held directly or indirectly by the Corporation are mandataries of the State. The provisions of this Act apply to such subsidiaries, with the necessary modifications, except sections 1, 13 to 18, the first paragraph of section 19, sections 21, 29, 30, 32 to 38, the second paragraph of section 41 and sections 42 to 77.”.

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Abbreviations: **A:** Abrogated, **N:** New, **M:** Modified

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