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NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SEVENTH LEGISLATURE

Bill 3
(2003, chapter 2)

An Act to amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions

Introduced 10 June 2003
Passage in principle 17 June 2003
Passage 17 June 2003
Assented to 3 July 2003

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EXPLANATORY NOTES

The main object of this bill is to harmonize the fiscal legislation of Québec with that of Canada. It consequently gives effect to various harmonization measures announced in the Budget Speeches delivered by the Minister of State for the Economy and Finance on 9 March 1999, 14 March 2000 and 29 March 2001, and in Information Bulletins 99-1 dated 30 June 1999, 2000-4 dated 29 June 2000, 2000-6 dated 20 October 2000, 2000-7 dated 27 October 2000, 2000-10 dated 21 December 2000, 2001-6 dated 5 July 2001 and 2001-13 dated 20 December 2001.

The bill amends the Taxation Act primarily to make amendments similar to various amendments made to the Canada Income Tax Act by Bill C-22 (S.C., 2001, chapter 17), assented to on 14 June 2001. In particular, the amendments concern

(1) a reduction in the capital gains inclusion rate, from 75% to 66 2/3% as of 28 February 2000, and from 66 2/3% to 50% as of 18 October 2000;

(2) deferral of taxation of capital gains relating to certain investments in small businesses;

(3) deferral of taxation of stock option benefits;

(4) an increase in the maximum amounts of eligible expenses in respect of the tax credit for child care expenses, where those expenses are used to care for a child with a mental or physical impairment;

(5) a broadening of the medical expense tax credit to include certain incremental costs relating to the construction of the principal place of residence of an individual who has a severe and prolonged ability impairment;

(6) the conditions of application and the method for computing the deduction for caregivers, to have the deduction apply to caregiver expenses incurred by an individual to pursue studies;

(7) the computation of the deduction for a clergy's residence to take into account such expenses in respect of utilities as the telephone, electricity and gas;

(8) the introduction of rules that apply to the tax credit for charitable gifts upon the death of an individual, as a consequence of the gift to a qualified donee of the proceeds from a life insurance policy ;

(9) the enhancement of the tax treatment for gifts of property having undeniable ecological value ;

(10) the tax treatment applicable in respect of certain trusts, such as protective trusts and trusts governed by a registered retirement savings plan or a registered retirement income fund ;

(11) the introduction of rules of interpretation respecting the simultaneous control of a subsidiary or of a corporation controlled by a group of persons ; and

(12) modifications to the rules concerning the deduction of advertising expenses for advertising space in a newspaper or a periodical and for broadcast advertising.

The bill amends other legislation that establishes an employee or employer contribution so that the contribution is determined without reference to the deferral of taxation of stock option benefits.

The bill also amends the Act respecting the Québec sales tax to incorporate into that Act the amendments made by the federal government to the Excise Tax Act by Bill C-13 (S.C., 2001, chapter 15), assented to on 14 June 2001. In particular, the amendments concern

(1) the introduction of new rules concerning shipping distribution centres and trading houses whose goods are intended for shipping outside Québec ;

(2) the implementation of a new residential rental property rebate ;

(3) an extension to the exemption for speech therapy services until the end of the year 2002 ; and

(4) a modification to the exempt treatment for vocational training.

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

LEGISLATION AMENDED BY THIS BILL :

– Act to foster the development of manpower training (R.S.Q., chapter D-7.1);

– Taxation Act (R.S.Q., chapter I-3);

– Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);

– Act respecting labour standards (R.S.Q., chapter N-1.1);

– Act respecting the Régie de l'assurance maladie du Québec (R.S.Q., chapter R-5);

– Act respecting the Québec Pension Plan (R.S.Q., chapter R-9);

– Act respecting the Québec sales tax (R.S.Q., chapter T-0.1);

– Act to amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions (1995, chapter 63);

– Act to again amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions (2001, chapter 53).

Bill 3

AN ACT TO AMEND THE TAXATION ACT, THE ACT RESPECTING THE QUÉBEC SALES TAX AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT TO FOSTER THE DEVELOPMENT OF MANPOWER TRAINING

1. (1) The Schedule to the Act to foster the development of manpower training (R.S.Q., chapter D-7.1), amended by section 3 of chapter 9 of the statutes of 2002, is again amended by replacing "section 43.3" in the definition of "salary or wages" in paragraph 2 by "sections 43.3 and 58.0.1".

(2) Subsection 1 has effect from 28 February 2000.

TAXATION ACT

2. (1) Section 1 of the Taxation Act (R.S.Q., chapter I-3), amended by section 517 of chapter 45 of the statutes of 2002, is again amended

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

""disposition" has the meaning assigned by section 248;";

(2) by replacing paragraph *a* of the definition of "foreign stock exchange" by the following paragraph:

"(*a*) in South Africa, the Johannesburg Stock Exchange;";

(3) by inserting the following paragraph after paragraph *a* of the definition of "foreign stock exchange":

"(*a*.1) in Germany, the Frankfurt Stock Exchange;";

(4) by inserting the following paragraph after paragraph *b* of the definition of "foreign stock exchange":

"(*b*.1) in Austria, the Vienna Stock Exchange;";

(5) by inserting the following paragraph after paragraph *c* of the definition of "foreign stock exchange":

"(*c*.1) in Denmark, the Copenhagen Stock Exchange;";

(6) by inserting the following paragraph after paragraph *e* of the definition of "foreign stock exchange":

"(*e*.1) in Finland, the Helsinki Stock Exchange;";

(7) by inserting the following paragraph after paragraph *h* of the definition of "foreign stock exchange":

"(*h*.1) in Israel, the Tel Aviv Stock Exchange;";

(8) by inserting the following paragraph after paragraph *k* of the definition of "foreign stock exchange":

"(*k*.1) in Norway, the Oslo Stock Exchange;";

(9) by inserting the following paragraph after paragraph *o* of the definition of "foreign stock exchange":

"(*o*.1) in Sweden, the Stockholm Stock Exchange;";

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

""qualified donee" has the meaning assigned by paragraph *b* of section 985.1;";

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

""post-1971 spousal trust" has the meaning assigned by section 652.1;";

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

""*alter ego* trust" has the meaning assigned by section 652.1;";

""joint spousal trust" has the meaning assigned by section 652.1;";

(13) by striking out "paragraph *b* of" in the definition of "capital interest";

(14) by striking out "paragraph *a* of" in the definition of "income interest";

(15) by replacing the definition of "province" by the following definition:

""province" means a province of Canada and includes the Northwest Territories, the Yukon Territory and Nunavut;";

(16) by striking out "incorporated under any Act other than an Act of the legislature of Québec," in the definition of "professional corporation".

(2) Paragraph 1 of subsection 1 applies in respect of transactions or events that occur after 23 December 1998.

(3) Paragraphs 2 to 9 of subsection 1 have effect from 26 November 1999.

(4) Paragraph 10 of subsection 1 has effect from 1 January 1999.

(5) Paragraph 11 of subsection 1 applies in respect of trusts created after 31 December 1971.

(6) Paragraph 12 of subsection 1 applies in respect of trusts created after 31 December 1999.

(7) Paragraphs 13 and 14 of subsection 1 apply in respect of interests created or materially altered after 31 January 1987 that were acquired after 10:00 p.m. Eastern Standard Time, 6 February 1987.

(8) Paragraph 15 of subsection 1 has effect from 1 April 1999.

(9) Paragraph 16 of subsection 1 has effect from 21 June 2001.

3. (1) Section 2.2 of the said Act, amended by section 141 of chapter 6 of the statutes of 2002, is replaced by the following section:

"**2.2.** For the purposes of the definitions of "joint spousal trust" and "post-1971 spousal trust" in section 1, sections 2.1, 312.3, 312.4, 313 to 313.0.5, 336.0.2, 336.0.3, 336.0.6 to 336.4, 440, 441.1, 454, 454.1, 456.1, 462.0.1 and 651, the definition of "pre-1972 spousal trust" in section 652.1, sections 653, 656.3, 656.5, 657, 660 and 913, subparagraph *b* of the second paragraph of section 961.17, sections 965.0.9, 965.0.11, 971.2 and 971.3 and Division II.11 of Chapter III.1 of Title III of Book IX, "spouse" and "former spouse" of a particular individual include another individual who is a party to an annulled or annullable marriage, as the case may be, with the particular individual."

(2) Subsection 1 has effect from 1 January 2000. However, where section 2.2 of the said Act applies before 24 June 2002, it shall be read with "of the opposite sex" inserted after "another individual".

4. (1) The said Act is amended by inserting the following sections after section 7.11.1:

"**7.11.2.** Without restricting the personal liabilities under this Act of the trustees of the trusts mentioned hereinafter or the application of section 656.9 or paragraph *f* of section 769, where a particular trust transfers property at a particular time to another trust, other than a trust governed by a registered retirement savings plan or by a registered retirement income fund, in circumstances to which subparagraph *b* of the second paragraph of

section 248 applies, the other trust is deemed to be after that time the same trust as, and a continuation of, the particular trust.

"**7.11.3.** Except for the purposes of this section, where at a particular time property is transferred to a trust in circumstances to which subparagraph *g* of the second paragraph of section 248 applies, the trust is deemed to act as agent or mandatary for the transferor in respect of the property throughout the period that begins at the time of the transfer and ends at the time of the first change after that time in the beneficial ownership of the property.

"**7.11.4.** Where a trust issues a unit of the trust to a taxpayer directly in consideration of a right to enforce payment of an amount by the trust in respect of the taxpayer's capital interest in the trust, the cost to the taxpayer of the unit is deemed to be equal to that amount where

(*a*) at the time the unit is issued, the trust is neither a personal trust nor a trust prescribed for the purposes of section 688; and

(*b*) the unit meets either of the following conditions:

i. the unit is capital property and subparagraph i.1 of paragraph *n* of section 257 applies in respect of that amount or would apply if that subparagraph i.1 were read without reference to subparagraphs 1 to 3 thereof, or

ii. the unit is not capital property and subparagraph i.1 of paragraph *n* of section 257 does not apply in respect of that amount but would so apply if that subparagraph i.1 were read without reference to subparagraphs 1 to 3 thereof.

"**7.11.5.** Where at a particular time a taxpayer's capital interest in a trust includes a right to enforce payment of an amount by the trust, the amount shall be added at the particular time to the cost otherwise determined to the taxpayer of the capital interest where

(*a*) immediately after the particular time, the taxpayer disposes of the capital interest;

(*b*) as a consequence of the disposition, the right to enforce payment of the amount is acquired by another person or partnership; and

(*c*) if the right to enforce payment of the amount had been satisfied by a payment to the taxpayer by the trust, there would have been no disposition of that right for the purposes of this Part by reason of the application of subparagraph *e* of the second paragraph of section 248."

(2) Subsection 1, where it enacts sections 7.11.2, 7.11.3 and 7.11.5 of the said Act, applies in respect of transfers that occur after 23 December 1998.

(3) Subsection 1, where it enacts section 7.11.4 of the said Act, applies from the taxation year 1999.

5. (1) The said Act is amended by inserting the following section after section 11.1.1:

"**11.1.2.** For the purposes of the provisions of this Act that apply to a trust for a taxation year only where the trust has been resident in Canada throughout the year, where a particular trust ceases at any time to exist and the particular trust was resident in Canada immediately before that time, the particular trust is deemed to be resident in Canada throughout the period that begins at that time and ends at the end of the year."

(2) Subsection 1 applies from the taxation year 1990.

6. (1) The said Act is amended by inserting the following section after section 11.4:

"**11.5.** For the purposes of this Act, unless the context indicates otherwise, the following rules apply:

(*a*) a taxation year of a person not resident in Canada shall be determined, except as otherwise permitted by the Minister, in the same manner as the taxation year of a person resident in Canada; and

(*b*) a person for whom income for a taxation year is determined in accordance with this Act includes a person not resident in Canada."

(2) Subsection 1 has effect from 18 December 1999.

7. (1) Section 18 of the said Act is replaced by the following section:

"**18.** For the purposes of this Part, the following rules apply:

(*a*) related persons are deemed not to deal with each other at arm's length;

(*b*) a taxpayer and a personal trust, other than a trust described in any of subparagraphs *a* to *d* of the third paragraph of section 647, are deemed not to deal with each other at arm's length if the taxpayer, or any person not dealing at arm's length with the taxpayer, would be beneficially interested in the trust if section 7.11.1 were read without reference to subparagraphs *b* to *d* of the second paragraph; and

(*c*) where paragraph *b* does not apply, it is a question of fact whether persons not related to each other are at a particular time dealing with each other at arm's length."

(2) Subsection 1 has effect from 24 December 1998. However, for the purpose of applying the definition of "taxable Canadian property" in section 1 of the said Act, section 18 of the said Act does not apply in respect of property acquired before 24 December 1998.

8. (1) Section 21.1 of the said Act is amended by replacing the second paragraph by the following paragraph:

"Sections 21.4 and 21.4.0.1 to 21.4.0.3 apply in respect of the control of a corporation for the purposes of this Part."

(2) Subsection 1 has effect from 1 December 1999.

9. (1) The said Act is amended by inserting the following sections after section 21.4:

"**21.4.0.1.** A corporation that would be controlled by another corporation if that other corporation were not controlled by any person or group of persons, is controlled by the other corporation and by any person or group of persons by whom the other corporation is controlled.

"**21.4.0.2.** A corporation that would be controlled by a group of persons, in this section referred to as the "first-tier group", if no corporation that is a member of the first-tier group were controlled by any person or group of persons, is controlled by

(*a*) the first-tier group; and

(*b*) any group of one or more persons comprised of, in respect of every member of the first-tier group, either the member, or a person or group of persons by whom the member is controlled.

"**21.4.0.3.** For their application within the framework of the circumstances described in section 21.25, sections 21.4.0.1 and 21.4.0.2 shall be read as if the references to "controlled" were references to "controlled, directly or indirectly in any manner whatever,"."

(2) Subsection 1 applies to taxation years that begin after 30 November 1999.

10. Section 21.11.12 of the said Act is amended

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

"**21.11.12.** For the purposes of this chapter, the following rules apply:";

(2) by replacing "une dette obligataire" in the French text of the portion of paragraph *b* before subparagraph i by "un titre de créance";

(3) by replacing "d'une telle dette obligataire ou telle action" in the French text of subparagraph i of paragraph *b* by "d'un tel titre de créance ou d'une telle action".

11. Section 21.11.20 of the said Act is amended by replacing "d'une dette obligataire d'une société qui a été émise" and "la dette obligataire est distribuée" in the French text of subparagraph ii of paragraph *c* by "d'un titre de créance d'une société qui a été émis" and "le titre de créance est distribué", respectively.

12. Section 21.12 of the French text of the said Act is amended by replacing "d'une dette obligataire ou d'une partie de celle-ci" and "cette dette" in subparagraph iii of paragraph *c* by "d'un titre de créance ou d'une partie de celui-ci" and "ce titre", respectively.

13. (1) Section 21.19 of the said Act is amended by replacing paragraphs *a* and *b* by the following paragraphs:

"(*a*) controlled, directly or indirectly in any manner whatever, by one or more persons not resident in Canada, by one or more public corporations, other than a prescribed corporation, by one or more corporations described in paragraph *c*, or by any combination thereof;

"(*b*) that would, if each share of the capital stock of a corporation that is owned by a person not resident in Canada, by a public corporation, other than a prescribed corporation, or by a corporation described in paragraph *c* were owned by a particular person, be controlled by the particular person; or".

(2) Subsection 1 applies to taxation years that begin after 31 December 1999.

14. (1) The said Act is amended by inserting the following section after section 39.5:

"**39.6.** An individual who is employed in a taxation year by a government, municipality or public authority, in this section referred to as the "employer", is not required to include in computing the individual's income for the year derived from the performance of the duties provided for in paragraph *a*, an amount received by the individual or the value of a benefit received or enjoyed by the individual in the year, because of the individual's employment with that employer for the performance of those duties, up to an amount of $1,000, where

(*a*) the individual receives or enjoys the amount for the performance of the individual's duties as a volunteer ambulance technician, a volunteer firefighter or a volunteer assisting in the search and rescue of individuals or in other emergency operations; and

(*b*) the employer certifies in writing where so requested by the Minister that the individual was in the year employed by the employer and performed the duties provided for in paragraph *a* and that the individual was at no time in the year employed by the employer otherwise than as a volunteer, in connection with the performance of any of those duties or of similar duties."

(2) Subsection 1 applies from the taxation year 1999.

15. (1) Section 47.18 of the said Act is amended by replacing the portion before the definition of "qualifying person" by the following:

"**47.18.** In this division and in sections 259.0.1 and 725.2 to 725.2.3,".

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

(1) it does not apply to a right under an agreement to which section 47.18 of the said Act, enacted by subsection 1 of section 14 of chapter 53 of the statutes of 2001, does not apply, except for the purposes of section 55 of the said Act; and

(2) where the portion of section 47.18 of the said Act before the definition of "qualifying person" applies before 1 January 2000, it shall be read as follows:

"**47.18.** In this division and in sections 725.2 and 725.2.1,".

16. (1) Section 49 of the said Act is amended by replacing "section 49.2" by "sections 49.2 and 58.0.1".

(2) Subsection 1 applies from the taxation year 2000. However, a share acquired in the taxation year 2000 under an agreement referred to in section 48 of the said Act is deemed to comply with the requirements of paragraph *d* of section 58.0.2 of the said Act, enacted by subsection 1 of section 23, if, at all times during the period that begins at the time the agreement was made, determined without reference to section 49.4 of the said Act, enacted by subsection 1 of section 18, and that ends at the time the share was acquired, the class of shares to which the share belongs was listed on a Canadian stock exchange or a foreign stock exchange or, in respect of the portion of that period that begins before 26 November 1999, was listed on a stock exchange referred to in section 21.11.20R1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1) and, in respect of the portion of that period that begins after 25 November 1999, was listed on a Canadian stock exchange or a foreign stock exchange.

17. (1) The said Act is amended by inserting the following sections after section 49.2.1:

"**49.2.2.** For the purposes of this section, sections 49.2 and 58.0.1, Title IV, sections 725.2.2 and 725.2.3, paragraph *a* of section 725.3 and section 888.1, and subject to section 49.2.3 and paragraph *c* of section 58.0.5, a taxpayer is deemed to dispose of securities that are identical properties in the order in which the taxpayer acquired them and the following rules apply for that purpose:

(*a*) where a taxpayer acquires a particular security, other than under the circumstances to which section 49.2, 58.0.1 or 886 applies, at a time when the taxpayer also acquires or holds one or more other securities that are identical to the particular security and are, or were, acquired under circumstances to which any of those sections applied, the taxpayer is deemed to have acquired the particular security at the time immediately preceding the earliest of the times at which the taxpayer acquired those other securities; and

(*b*) where a taxpayer acquires, at the same time, two or more identical securities under the circumstances to which section 49.2 or 58.0.1 applied, the taxpayer is deemed to have acquired the securities in the order in which the agreements under which the taxpayer acquired the rights to acquire the securities were made.

"**49.2.3.** Where a taxpayer acquires, at a particular time, a particular security under an agreement referred to in section 48 and, on a day that is no later than 30 days after the day that includes the particular time, the taxpayer disposes of a security that is identical to the particular security, the particular security is deemed to be the security that is so disposed of if

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

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

(*c*) the taxpayer has not so identified the particular security, in accordance with this section, in relation to the disposition of any other security."

(2) Subsection 1 applies in respect of securities acquired, but not disposed of, before 28 February 2000 and in respect of securities acquired after 27 February 2000.

18. (1) Section 49.4 of the said Act is replaced by the following section:

"**49.4.** For the purposes of this division, the rules provided for in the fourth paragraph apply where a taxpayer disposes of rights under an agreement referred to in section 48 to acquire securities of the particular qualifying person that made the agreement or of a qualifying person with which the particular qualifying person does not deal at arm's length, which rights and securities are referred to in this section as the "exchanged option" and the "old securities", respectively, and where

(*a*) the taxpayer receives no consideration for the disposition of the exchanged option other than rights under an agreement with any of the following persons to acquire securities of any such person or of a qualifying person with which any such person does not deal at arm's length, which rights

and securities are referred to in this section as the "new option" and the "new securities", respectively:

i. the particular qualifying person,

ii. a qualifying person with which the particular qualifying person does not deal at arm's length immediately after the disposition of the exchanged option,

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

iv. a qualifying person with which the corporation referred to in subparagraph iii does not deal at arm's length immediately after the disposition of the exchanged option, and

v. a mutual fund trust to which the particular qualifying person has transferred property in circumstances to which Title I.2 of Book VI applied; and

(*b*) the amount by which the total value of the new securities immediately after the disposition exceeds the amount determined under the second paragraph does not exceed the amount by which the total value of the old securities immediately before the disposition exceeds the amount determined under the third paragraph.

The first amount to which subparagraph *b* of the first paragraph refers is equal to the total amount payable by the taxpayer to acquire the new securities under the new option.

The second amount to which subparagraph *b* of the first paragraph refers is equal to the amount payable by the taxpayer to acquire the old securities under the exchanged option.

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

(*a*) the taxpayer is deemed, except for the purposes of subparagraph ii of paragraph *d* of section 58.0.2, not to have disposed of the exchanged option and not to have acquired the new option;

(*b*) the new option is deemed to be the same option as, and a continuation of, the exchanged option; and

(*c*) the person described in any of subparagraphs ii to v of subparagraph *a* of the first paragraph is deemed to be the same person as, and a continuation of, the particular qualifying person."

(2) Subsection 1 applies from the taxation year 1998. However, where subparagraph *a* of the fourth paragraph of section 49.4 of the said Act applies

(1) to a taxation year preceding the year 2000, it shall be read as follows:

"(*a*) the taxpayer is deemed not to have disposed of the exchanged option and not to have acquired the new option;"; and

(2) to the taxation year 2000, a share acquired in the taxation year 2000 under an agreement referred to in section 48 of the said Act is deemed to comply with the requirements of paragraph *d* of section 58.0.2 of the said Act, enacted by subsection 1 of section 23, if, at all times during the period that begins at the time the agreement was made, determined without reference to section 49.4 of the said Act and that ends at the time the share was acquired, the class of shares to which the share belongs was listed on a Canadian stock exchange or a foreign stock exchange or, in respect of the portion of that period that begins before 26 November 1999, was listed on a stock exchange referred to in section 21.11.20R1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1) and, in respect of the portion of that period that begins after 25 November 1999, was listed on a Canadian stock exchange or a foreign stock exchange.

19. (1) Section 49.5 of the said Act is replaced by the following section:

"**49.5.** For the purposes of this division and sections 725.2, 725.2.2 and 725.3, where a taxpayer disposes of or exchanges securities of a particular qualifying person that were acquired by the taxpayer under circumstances to which section 49.2 or 58.0.1 applied, in this section referred to as the "exchanged securities", the taxpayer receives no consideration for the disposition or exchange of the exchanged securities other than securities, in this section referred to as the "new securities" of any of the persons described in the second paragraph, and the total value of the new securities immediately after the disposition or exchange does not exceed the total value of the exchanged securities immediately before the disposition or exchange, the following rules apply:

(*a*) the taxpayer is deemed not to have exchanged or disposed of the exchanged securities and not to have acquired the new securities;

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

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

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

The persons to which the first paragraph refers are the following:

(*a*) the particular qualifying person;

(*b*) a qualifying person with which the particular qualifying person does not deal at arm's length immediately after the disposition or exchange of the exchanged securities;

(*c*) a corporation formed on the amalgamation or merger of the particular qualifying person and one or more other corporations;

(*d*) a qualifying person with which the corporation referred to in subparagraph *c* does not deal at arm's length immediately after the disposition or exchange of the exchanged securities, and

(*e*) a mutual fund trust to which the particular qualifying person has transferred property in circumstances to which Title I.2 of Book VI applied."

(2) Subsection 1 applies in respect of dispositions or exchanges of securities by a taxpayer that occur after 27 February 2000.

20. (1) The said Act is amended by inserting the following sections after section 49.5:

"**49.6.** For the purposes of this division and section 725.3, a taxpayer is deemed not to have disposed of a share acquired under circumstances to which section 49.2 applied solely because of section 785.2.

"**49.7.** For the purposes of sections 50 and 725.2, where a taxpayer receives at a particular time one or more particular amounts in respect of rights of the taxpayer to acquire securities under an agreement referred to in section 48 ceasing to be exercisable in accordance with the terms of the agreement, and the cessation would not, but for this section, constitute a transfer or disposition of those rights by the taxpayer, the following rules apply:

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

(*b*) for the purpose of determining the amount, if any, of the benefit that the taxpayer is deemed by section 50 to have received as a consequence of the disposition referred to in paragraph *a*, the taxpayer is deemed to have paid an amount to acquire those rights equal to the amount by which the amount paid by the taxpayer to acquire those rights, determined without reference to this section, exceeds the aggregate of all amounts each of which is an amount received by the taxpayer before the particular time in respect of the cessation."

(2) Subsection 1, where it enacts section 49.6 of the said Act, has effect from 1 January 1993.

(3) Subsection 1, where it enacts section 49.7 of the said Act, applies in respect of amounts received after 15 March 2001, other than amounts received after that date

(1) under an agreement in writing made on or before that date in settlement of claims arising as a result of a cessation occurring on or before that date; or

(2) under an order or judgment issued on or before that date in respect of claims arising as a result of a cessation occurring on or before that date.

21. (1) Section 53 of the said Act is amended by inserting ", 725.2.2" after "725.2".

(2) Subsection 1 applies from the taxation year 2000. However, a share acquired in the taxation year 2000 under an agreement referred to in section 48 of the said Act is deemed to comply with the requirements of paragraph *d* of section 58.0.2 of the said Act, enacted by subsection 1 of section 23, if, at all times during the period that begins at the time the agreement was made, determined without reference to section 49.4 of the said Act, enacted by subsection 1 of section 18, and that ends at the time the share was acquired, the class of shares to which the share belongs was listed on a Canadian stock exchange or a foreign stock exchange or, in respect of the portion of that period that begins before 26 November 1999, was listed on a stock exchange referred to in section 21.11.20R1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1) and, in respect of the portion of that period that begins after 25 November 1999, was listed on a Canadian stock exchange or a foreign stock exchange.

22. (1) Section 58 of the said Act is amended, in the portion before subparagraph *a* of the first paragraph, by inserting ", 725.2.2" after "725.2".

(2) Subsection 1 applies from the taxation year 2000. However, a share acquired in the taxation year 2000 under an agreement referred to in section 48 of the said Act is deemed to comply with the requirements of paragraph *d* of section 58.0.2 of the said Act, enacted by subsection 1 of section 23, if, at all times during the period that begins at the time the agreement was made, determined without reference to section 49.4 of the said Act, enacted by subsection 1 of section 18, and that ends at the time the share was acquired, the class of shares to which the share belongs was listed on a Canadian stock exchange or a foreign stock exchange or, in respect of the portion of that period that begins before 26 November 1999, was listed on a stock exchange referred to in section 21.11.20R1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1) and, in respect of the portion of that period that begins after 25 November 1999, was listed on a Canadian stock exchange or a foreign stock exchange.

23. (1) The said Act is amended by inserting the following sections after section 58:

"**58.0.1.** Where a particular qualifying person, other than a Canadian-controlled private corporation, has agreed to sell or issue securities of the particular qualifying person, or of a qualifying person with which it does not deal at arm's length, to a taxpayer who is an employee of the particular qualifying person or of a qualifying person with which the particular qualifying person does not deal at arm's length, section 49, where it applies in respect of the taxpayer's acquisition of a security under the agreement, shall be read as if the reference therein to "in which the employee acquires the security" were a reference to "in which the employee disposes of or exchanges the security" if

(*a*) the acquisition is a qualifying acquisition; and

(*b*) the taxpayer makes a valid election for the purposes of subsection 8 of section 7 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the acquisition.

"**58.0.2.** For the purposes of section 58.0.1, a taxpayer's acquisition of a security under an agreement made by a particular qualifying person is a qualifying acquisition if

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

(*b*) the taxpayer would, but for section 58.0.1, be entitled to deduct an amount under section 725.2 in respect of the security in computing taxable income for the taxation year in which the security is acquired;

(*c*) where the particular qualifying person is a corporation, the taxpayer was not, at the time immediately after the agreement was made, a person who would, if the references in section 21.17 to "in a taxation year" and "at any time in the year" were read as references to "at any time" and "at that time", respectively, be a specified shareholder of any of

i. the particular qualifying person,

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

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

(*d*) where the security is a share, it is of a class of shares that, at the time the acquisition occurs, is listed on a Canadian stock exchange or a foreign stock exchange and, where rights under the agreement were acquired by the taxpayer as a result of one or more dispositions to which section 49.4 applied, none of the rights that were the subject of any of the dispositions included a right to acquire a share of the class of shares that, at the time the rights were disposed

of, was not listed on a Canadian stock exchange or a foreign stock exchange or listed on a stock exchange referred to in section 21.11.20R1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1) if the disposition occurred before 26 November 1999.

"**58.0.3.** Unless the context otherwise requires, a taxpayer is deemed to exercise identical rights to acquire securities under agreements referred to in section 48

(*a*) where the taxpayer has designated an order for the purposes of paragraph *a* of subsection 12 of section 7 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), in the order so designated; and

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

"**58.0.4.** For the purposes of this division, except for this section, a valid election referred to in paragraph *b* of section 58.0.1 is deemed never to have been made if, before 16 January of the year following the year in which the taxpayer's acquisition of a security occurs, the taxpayer files, in accordance with subsection 13 of section 7 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), with the person with whom the election was filed a written revocation of the election.

"**58.0.5.** For the purposes of this division and section 725.2, where a taxpayer makes the election referred to in section 58.0.1 in respect of the taxpayer's acquisition of a particular security and section 58.0.1 would not apply to the acquisition if this division were read without reference to this section, the following rules apply if the Minister so notifies the taxpayer in writing:

(*a*) the acquisition is deemed, for the purposes of section 58.0.1, to be a qualifying acquisition;

(*b*) the taxpayer is deemed to have made a valid election referred to in paragraph *b* of section 58.0.1; and

(*c*) if, at the time the Minister sends the notice, the taxpayer has not disposed of the security, the taxpayer is deemed, other than for the purposes of section 49.5, to have disposed of the security at that time and to have acquired the security immediately after that time other than under an agreement referred to in section 48.

"**58.0.6.** For the purposes of section 1015, the benefit that a taxpayer is deemed to have received in a taxation year because of the taxpayer's office or employment under section 49, by reason of the application of section 58.0.1, is deemed to be nil.

"**58.0.7.** Where, at any time in a taxation year, a taxpayer holds a security that was acquired under the circumstances to which section 58.0.1 applied, the taxpayer shall enclose with the fiscal return the taxpayer is required to file for the year under section 1000, or would be required to so file if tax were payable by the taxpayer under this Part, a copy of every document sent to the Minister of National Revenue under subsection 16 of section 7 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement)."

(2) Subsection 1 applies from the taxation year 2000. However, a share acquired in the taxation year 2000 under an agreement referred to in section 48 of the said Act is deemed to comply with the requirements of paragraph *d* of section 58.0.2 of the said Act, if, at all times during the period that begins at the time the agreement was made, determined without reference to section 49.4 of the said Act, enacted by subsection 1 of section 18, and that ends at the time the share was acquired, the class of shares to which the share belongs was listed on a Canadian stock exchange or a foreign stock exchange or, in respect of the portion of that period that begins before 26 November 1999, was listed on a stock exchange referred to in section 21.11.20R1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1) and, in respect of the portion of that period that begins after 25 November 1999, was listed on a Canadian stock exchange or a foreign stock exchange.

24. Section 64.3 of the said Act is amended by replacing "No amount may be deducted in the year by an individual under section 62, 63 or 63.1" by "No amount may be deducted for the year by an individual under any of sections 62, 63 and 63.1".

25. (1) Section 76 of the said Act is replaced by the following section:

"**76.** An individual who, in the year, is a member of the clergy or of a religious order or a regular minister of a religious denomination, and is in charge of or ministering to a diocese, parish or congregation or engaged exclusively in full-time administrative service by appointment of a religious order or religious denomination, may deduct the amount, not exceeding the individual's remuneration for the year from the office or employment, equal to

(*a*) the aggregate of all amounts including amounts in respect of utilities, included in computing the individual's income for the year under Chapter II in relation to the residence or other living accommodation occupied by the individual because of the individual's office or employment; or

(*b*) the total of the rent and expenses in respect of utilities paid by the individual for the individual's principal place of residence or other principal living accommodation, ordinarily occupied during the year by the individual, or the fair rental value of such residence or other living accommodation, including the value of utilities, owned by the individual or the individual's spouse, not exceeding the amount determined under the second paragraph.

The amount to which subparagraph *b* of the first paragraph refers is the lesser of

(*a*) the greater of

i. $1,000 multiplied by the number of months in the year during which the individual is a member or a minister referred to in the first paragraph, not exceeding $10,000, and

ii. one-third of the individual's remuneration for the year from the office or employment; and

(*b*) the amount by which the total of the rent paid or the fair rental value of the residence or living accommodation and expenses in respect of utilities exceeds the aggregate of all amounts each of which is an amount deducted, in respect of the residence or accommodation, in computing a particular individual's income from an office or employment or from a business, other than an amount deducted under the first paragraph by the individual, to the extent that the amount can reasonably be considered to relate to the period, or a portion of the period, in respect of which the individual deducted an amount under the first paragraph.

No amount may be deducted for the year by an individual under the first paragraph, unless the individual files with the Minister, together with the individual's fiscal return for the year under this Part, a prescribed form signed by the individual's employer certifying that the conditions set out in that paragraph were met in the year in respect of the individual."

(2) Subsection 1 applies from the taxation year 2001.

26. Section 78 of the said Act is amended by replacing "no such amounts may be deducted in the year by the individual" in the second paragraph by "no such amounts may be deducted for the year by the individual".

27. (1) Section 78.7 of the said Act is repealed.

(2) Subsection 1 applies from the taxation year 1999. In addition, where section 78.7 of the said Act, repealed by subsection 1, applies to the taxation year 1998, it shall be read as follows:

"**78.7.** An individual who is employed in a taxation year by a government, municipality or public authority, in this section referred to as the "employer", may deduct in computing the individual's income for the year derived from the performance of the duties provided for in paragraph *a*, an amount received by the individual or the value of a benefit received or enjoyed by the individual in the year, because of the individual's employment with that employer for the performance of those duties, up to an amount of $1,000, where

(*a*) the individual receives or enjoys the amount for the performance of the individual's duties as a volunteer ambulance technician, a volunteer firefighter or a volunteer assisting in the search and rescue of individuals or in other emergency operations; and

(*b*) the employer certifies in writing where so requested by the Minister that the individual was in the year employed by the employer and performed the duties provided for in paragraph *a* and that the individual was at no time in the year employed by the employer otherwise than as a volunteer, in connection with the performance of any of those duties or of similar duties."

28. (1) Section 78.8 of the said Act is replaced by the following section:

"**78.8.** If an individual in respect of whom an amount may be deducted because of section 752.0.14 or 752.0.15 for a taxation year files with the individual's fiscal return under this Part for the year, other than a fiscal return filed under the second paragraph of section 429 or any of sections 681, 782 and 1003, a prescribed form containing the prescribed information, there may be deducted in computing the individual's income for the year from an office or employment the amount determined by the formula

A × B/C.

In the formula provided for in the first paragraph,

(*a*) A is the lesser of

i. the amount by which the aggregate of all amounts each of which is the amount of a reimbursement or any other form of assistance, other than an amount that is included in computing a taxpayer's income and that is not deductible in computing the taxpayer's taxable income, that a taxpayer is or was entitled to receive in respect of an amount described in both subparagraphs 1 and 2, is exceeded by the aggregate of all amounts each of which is an amount

(1) that was paid in the year by the individual to a person who, at the time of the payment, is neither the individual's spouse nor under 18 years of age, on account of attendant care provided in Canada to the individual to enable the individual to perform the duties of an office or employment, to carry on a business either alone or as a partner actively engaged in the business, to carry on research or any similar work in respect of which the individual received a grant, or to attend an educational institution referred to in section 358.0.2, or a secondary school, at which the individual is enrolled in an educational program, and

(2) that is not included in computing a deduction under sections 752.0.11 to 752.0.13.0.1 for any taxation year, and

ii. 2/3 of the aggregate of all amounts each of which is

(1) an amount included under any of sections 32 to 58.3 in computing the individual's income for the year from an office or employment,

(2) the amount that would be the individual's income for the year from a business carried on either alone or as a partner actively engaged in the business if it were determined without reference to section 157.18, or

(3) an amount included in computing the individual's income for the year under any of paragraphs *e*.2 to *e*.4 of section 311 or paragraph *g* or *h* of section 312;

(*b*) B is the aggregate of all amounts each of which is an amount determined under subparagraph 1 of subparagraph ii of subparagraph *a*; and

(*c*) C is the aggregate determined under subparagraph ii of subparagraph *a*.

However, an amount that is referred to in subparagraph i of subparagraph *a* of the second paragraph and that was paid by the individual may be included in computing a deduction under the first paragraph only if the payment is proven by filing with the Minister one or more receipts each of which was issued by the payee and contains, where the payee is an individual, the individual's Social Insurance Number."

(2) Subsection 1 applies from the taxation year 1998. However, where subparagraph *a* of the second paragraph of section 78.8 of the said Act applies to taxation years preceding the taxation year 2000,

(1) subparagraph 1 of subparagraph i shall be read as follows:

"(1) that was paid in the year by the individual to a person who, at the time of the payment, is neither the individual's spouse nor under 18 years of age, on account of attendant care provided in Canada to the individual to enable the individual to perform the duties of an office or employment, to carry on a business either alone or as a partner actively engaged in the business, or to carry on research or any similar work in respect of which the individual received a grant, and"; and

(2) subparagraph 3 of subparagraph ii shall be read without reference to "any of paragraphs *e*.2 to *e*.4 of section 311 or".

29. (1) Section 78.9 of the said Act is amended

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

"(*a*) subparagraph 1 of subparagraph i of subparagraph *a* of the second paragraph of that section 78.8 shall be read without reference to the words "in Canada"; and";

(2) by replacing "the second paragraph" in paragraph *b* by "the third paragraph".

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

30. (1) Section 87 of the said Act is amended by replacing paragraph *i*.1 by the following paragraph:

"(*i*.1) that proportion of 1/2 of the amount received in the year on account of a debt in respect of which a deduction for a bad debt under section 142.1 had been made in computing the taxpayer's income for a preceding taxation year that the amount deducted under that section in respect of that debt is of the aggregate of the amount so deducted and the amount deemed under section 142.1 or 142.2 to be an allowable capital loss in respect of that debt;".

(2) Subsection 1 applies to taxation years that end after 27 February 2000. However, where paragraph *i*.1 of section 87 of the said Act applies to taxation years that end before 18 October 2000, the reference to the fraction "1/2" in that paragraph *i*.1 shall be read as a reference to the fraction "2/3".

31. (1) The said Act is amended by inserting the following section after section 91:

"**91.1.** There shall be included in computing a taxpayer's income for a taxation year any amount that is, in relation to a foreign oil and gas business of the taxpayer, the taxpayer's production tax amount for the year.

In the first paragraph, "foreign oil and gas business" and "production tax amount" have the meaning assigned by section 772.2."

(2) Subsection 1 applies to taxation years of a taxpayer that begin after the earlier of

(1) 31 December 1999; and

(2) if, in accordance with paragraph *b* of subsection 26 of section 117 of the Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act (Statutes of Canada, 2001, chapter 17), a date is designated by the taxpayer for the purposes of that subsection 26, the later of

(*a*) the date so designated by the taxpayer; and

(*b*) 31 December 1994.

(3) Notwithstanding sections 1010 to 1011 of the Taxation Act, the Minister of Revenue shall make such assessments, reassessments or additional

assessments of tax, interest or penalties payable by a taxpayer under Part I of the said Act, as are necessary, for any taxation year that began before 1 January 2000, to give effect to paragraph 2 of subsection 2; sections 93.1.8 and 93.1.12 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, with the necessary modifications, to such assessments.

32. (1) Section 93 of the said Act is amended by striking out subparagraph *a* of the first paragraph.

(2) Subsection 1 applies in respect of transactions or events that occur after 23 December 1998.

33. (1) Section 93.3 of the said Act is amended

(1) by replacing "1/4" by ", subject to the second paragraph, 1/2";

(2) by adding the following paragraph:

"However, where the disposition occurs in a taxation year of the taxpayer that includes 28 February 2000 or 17 October 2000, or that begins after 28 February 2000 and ends before 17 October 2000, the fraction "1/2" in the first paragraph shall be replaced by the fraction obtained when the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the taxpayer for the year is subtracted from 1."

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

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

(1) by replacing "3/4" by ", subject to section 99.1, 1/2", in the following provisions:

— subparagraph ii of paragraph *b*;

— subparagraph i of paragraph *d*;

— subparagraph i of paragraph *d*.1;

(2) by replacing "4/3 of" by ", subject to section 99.1, twice", in the following provisions:

— subparagraph ii of paragraph *b*;

— subparagraph i of paragraph *d*;

— subparagraphs i and ii of paragraph *d*.1;

(3) by replacing "3/4" in subparagraph ii of paragraph *d*.2 by "subject to section 99.1, 1/2".

(2) Paragraphs 1 and 2 of subsection 1, where they amend paragraphs *b* and *d* of section 99 of the said Act, apply in respect of changes in use of property that occur in taxation years that end after 27 February 2000.

(3) Paragraphs 1 and 2 of subsection 1, where they amend paragraph *d*.1 of section 99 of the said Act, and paragraph 3 of that subsection 1, apply in respect of acquisitions of property that occur in taxation years that end after 27 February 2000.

35. (1) The said Act is amended by inserting the following section after section 99:

"**99.1.** For the purposes of paragraphs *b*, *d*, *d*.1 and *d*.2 of section 99, the rules provided for in the second paragraph apply where

(*a*) in the case of paragraphs *b* and *d*, the change in use of property occurs during a taxpayer's taxation year that includes 28 February 2000 or 17 October 2000, or that begins after 28 February 2000 and ends before 17 October 2000;

(*b*) in the case of paragraph *d*.1, the acquisition of property occurs during a transferor's taxation year that includes 28 February 2000 or 17 October 2000, or that begins after 28 February 2000 and ends before 17 October 2000; and

(*c*) in the case of paragraph *d*.2, the acquisition of property occurs during a corporation's taxation year that includes 28 February 2000 or 17 October 2000, or that begins after 28 February 2000 and ends before 17 October 2000.

The fraction "1/2" and the word "twice" in paragraphs *b*, *d* and *d*.1 of section 99, and the fraction "1/2" in paragraph *d*.2 of that section shall be replaced, with the necessary modifications, by

(*a*) in the case of the fraction "1/2" in paragraphs *b* and *d*, the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the taxpayer for the year in which the change in use of property occurs;

(*b*) in the case of the fraction "1/2" in paragraph *d*.1, the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the transferor of the property for the year in which the transferor disposed of the property;

(*c*) in the case of the fraction "1/2" in paragraph *d*.2, the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the corporation for the year in which the acquisition of the property occurs;

(*d*) in the case of the word "twice" in paragraphs *b* and *d*, the fraction that is the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the taxpayer for the year in which the change in use of property occurs; and

(*e*) in the case of the word "twice" in paragraph *d*.1, the fraction that is the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the transferor of the property for the year in which the transferor disposed of the property."

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

36. (1) Section 105 of the said Act is replaced by the following section:

"**105.** Where, at the end of a taxation year, the amount determined under the second paragraph of section 107 in respect of a business of a taxpayer exceeds the aggregate of all amounts each of which is an amount determined under any of subparagraphs *a* to *d* of the first paragraph of that section in respect of that business, there shall be included in computing the taxpayer's income from the business for the year the total of

(*a*) the lesser of the excess and the amount determined at the end of the year in respect of the business under subparagraph *a* of the second paragraph of section 107; and

(*b*) the amount determined by the formula provided for in section 105.2."

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

37. (1) Section 105.1 of the said Act is repealed.

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

38. (1) Section 105.2 of the said Act is amended

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

"**105.2.** The formula to which paragraph *b* of section 105 refers is the following:

$2/3 \times [A - (B + C + D)]$." ;

(2) by replacing "under subparagraph i of paragraph *b* of section 107" in subparagraph *b* of the second paragraph by "under subparagraph *a* of the second paragraph of section 107";

(3) by replacing "under subparagraph 2 of subparagraph i of paragraph *b* of section 107" in subparagraph *c* of the second paragraph by "under subparagraph ii of subparagraph *a* of the second paragraph of section 107";

(4) by replacing subparagraph *d* of the second paragraph by the following subparagraph:

"(*d*) D is, where the taxpayer was resident in Canada throughout the year, the amount claimed by the taxpayer, not exceeding the taxpayer's exempt gains balance in respect of the business for the year determined in accordance with section 107.2 and, in any other case, nil.";

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

"For the purposes of subparagraph *d* of the second paragraph, an individual who is resident in Canada at any time in a taxation year is deemed to be resident in Canada throughout the year if the individual is resident in Canada throughout the preceding taxation year or the following taxation year."

(2) Subsection 1 applies to taxation years that end after 27 February 2000. However, where the first paragraph of section 105.2 of the said Act applies to taxation years that end before 18 October 2000, the reference to the fraction "2/3" in that paragraph shall be read as a reference to the fraction "8/9".

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

"**105.2.1.** The rules provided for in the second paragraph apply where, at any time in a taxation year, a taxpayer disposes of a property that is an intangible capital property, other than goodwill, in respect of a business and where

(*a*) the cost of the property to the taxpayer can be determined;

(*b*) the proceeds of the disposition, in this section referred to as the "actual proceeds", exceed the cost of the property;

(*c*) the taxpayer's exempt gains balance in respect of the business for the year determined in accordance with section 107.2 is nil; and

(*d*) the taxpayer so elects under this section in the taxpayer's fiscal return filed for the year in accordance with section 1000.

The rules to which the first paragraph refers are the following:

(*a*) for the purposes of section 107, the proceeds of disposition of the property are deemed to be equal to its cost;

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

(*c*) where the intangible capital property is at that time a qualified farm property within the meaning of section 726.6 of the taxpayer, the capital property deemed to have been disposed of by the taxpayer as a consequence of

the application of paragraph *b* is deemed to be at that time a qualified farm property of the taxpayer."

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

40. (1) Section 105.3 of the said Act is amended

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

"**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 paragraph *b* 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 paragraph *b* of section 105 in computing the taxpayer's income for the particular year from the business; and";

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

"(*a*) A is the amount by which the aggregate of the following amounts exceeds the amount determined under the third paragraph:

i. 3/4 of the aggregate of all amounts each of which is the taxpayer's proceeds from a disposition in a preceding taxation year that begins after 31 December 1987 but that ends before 28 February 2000 of intangible capital property in respect of the business that, at the time of disposition, was a qualified farm property of the taxpayer,

ii. 2/3 of 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 ends after 27 February 2000 but before 18 October 2000 of intangible capital property in respect of the business that, at the time of the disposition, was a qualified farm property of the taxpayer, and

iii. 1/2 of 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 ends after 17 October 2000 of intangible capital property in respect of the business that, at the time of the disposition, was a qualified farm property of the taxpayer;";

(3) by adding the following paragraph after the second paragraph:

"The amount to which subparagraph *a* of the second paragraph refers is the aggregate of

(*a*) 3/4 of the aggregate of all amounts each of which is

i. an intangible capital amount of the taxpayer in respect of the business that is payable or disbursed in relation to a qualified farm property disposed of by the taxpayer in a preceding taxation year that begins after 31 December 1987 but that ends before 28 February 2000, or

ii. 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;

(*b*) 2/3 of the aggregate of all amounts each of which is

i. an intangible capital amount of the taxpayer in respect of the business that is 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 ends after 27 February 2000 but before 18 October 2000, or

ii. 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

(*c*) 1/2 of the aggregate of all amounts each of which is

i. an intangible capital amount of the taxpayer in respect of the business that is 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 ends after 17 October 2000, or

ii. 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."

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

41. (1) Section 106.1 of the said Act is amended

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

"**106.1.** Notwithstanding any other provision of this Part, where at a particular time a person or partnership, in this section referred to as the "purchaser", has, directly or indirectly, in any manner whatever, acquired an intangible capital property in respect of a business from a transferor being a person or partnership with which the purchaser did not deal at arm's length, and the property was an intangible capital property of the transferor, other than property acquired by the purchaser as a consequence of the death of the transferor, the intangible capital amount of the purchaser in respect of the business is deemed, in respect of that acquisition, to be equal to 4/3 of the amount by which the amount determined under subparagraph *b* of the second

paragraph of section 107 in respect of the disposition of the property by the transferor, exceeds the aggregate of

(*a*) the aggregate of all amounts each of which is an amount that can reasonably be considered to have been claimed as a deduction under Title VI.5 of Book IV, for a taxation year that ends before 28 February 2000, by any person with whom the purchaser was not dealing at arm's length in respect of the disposition of the property by the transferor, or any other disposition of the property before the particular time;

(*b*) 9/8 of the aggregate of all amounts each of which is an amount that can reasonably be considered to have been claimed as a deduction under Title VI.5 of Book IV, for a taxation year that ends after 27 February 2000 but before 18 October 2000 by any person with whom the purchaser was not dealing at arm's length in respect of the disposition of the property by the transferor, or any other disposition of the property before the particular time; and

(*c*) 3/2 of the aggregate of all amounts each of which is an amount that can reasonably be considered to have been claimed as a deduction under Title VI.5 of Book IV, for a taxation year that ends after 17 October 2000, by any person with whom the purchaser was not dealing at arm's length in respect of the disposition of the property by the transferor, or any other disposition of the property before the particular time.";

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

"Notwithstanding the foregoing, where the purchaser disposes of the property after the particular time, the amount which is deemed under the first paragraph to be the intangible capital amount of the purchaser in relation to the property shall be determined at any time after the disposition as if the aggregate of the amounts determined under subparagraphs *a* to *c* of the first paragraph in respect of the property were the lesser of";

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

"(*b*) the amount by which the amount determined under subparagraph *b* of the second paragraph of section 107 in respect of the disposition of the property by the transferor exceeds the amount determined under that subparagraph *b* in respect of the disposition of the property by the purchaser."

(2) Subsection 1 applies to taxation years that end after 27 February 2000. However, where section 106.1 of the said Act applies in respect of property that was disposed of by a transferor in a taxation year of the transferor that ends before 28 February 2000,

(1) the reference to "under subparagraph *b* of the second paragraph of section 107" in the portion of the first paragraph of section 106.1 before

subparagraph *a* shall be read as a reference to "under subparagraph ii of paragraph *b* of section 107"; and

(2) subparagraph *b* of the second paragraph of that section 106.1 shall be read as follows:

"(*b*) the amount by which the amount determined under subparagraph ii of paragraph *b* of section 107 in respect of the disposition of the property by the transferor exceeds the amount determined under subparagraph *b* of the second paragraph of that section in respect of the disposition of the property by the purchaser."

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

"**107.** The eligible intangible capital amount of a taxpayer at a particular time in respect of a business of the taxpayer is the amount by which the amount determined under the second paragraph is exceeded by the aggregate of

(*a*) 3/4 of the aggregate of all amounts each of which is an intangible capital amount in respect of the business that is payable or disbursed by the taxpayer before the particular time but after the taxpayer's adjustment time;

(*b*) the aggregate of the following amounts:

i. 3/2 of the aggregate of all amounts each of which is an amount included under paragraph *b* of section 105 in computing the taxpayer's income from the business for a taxation year ending before the particular time but after 17 October 2000,

ii. 9/8 of the aggregate of all amounts each of which is an amount included under paragraph *b* of section 105 in computing the taxpayer's income from the business for a taxation year ending before the particular time and after 27 February 2000 but before 18 October 2000,

iii. the aggregate of all amounts each of which is an amount included under paragraph *b* of section 105 in computing the taxpayer's income from the business for a taxation year ending before the earlier of the particular time and 28 February 2000 but after the taxpayer's adjustment time,

iv. the aggregate of all amounts each of which is an amount that would have been included in computing the taxpayer's income from the business for a taxation year ending before the earlier of the particular time and 28 February 2000 but after 22 February 1994 under subparagraph ii of paragraph *a* of section 105, as that subparagraph read for that taxation year, if the amount determined under subparagraph *d* of the second paragraph of section 105.2 for the year had been nil, and

v. the aggregate of all amounts each of which is a taxable capital gain included in computing the taxpayer's income for a taxation year that began before 23 February 1994, by reason of the application of subparagraph ii of paragraph *a* of section 105, as that subparagraph read for that taxation year, to the taxpayer in respect of the business;

(*c*) 3/2 of the taxpayer's eligible intangible capital amount in respect of the business at the taxpayer's adjustment time;

(*d*) the amount by which the aggregate of all amounts each of which is an amount deducted under paragraph *b* of section 130 in computing the taxpayer's income from the business for a taxation year ending before the taxpayer's adjustment time exceeds the aggregate of all amounts each of which is an amount included under section 105 in computing that income for such a taxation year; and

(*e*) where the aggregate determined under subparagraph *b* exceeds zero, 1/2 of the amount determined under subparagraph ii of subparagraph *a* of the second paragraph in respect of the business.

The amount to which the first paragraph refers is equal to the aggregate of

(*a*) the amount by which the aggregate of all amounts each of which is an amount included in computing the taxpayer's income from the business for a taxation year ending before the particular time but after the taxpayer's adjustment time under subparagraph i of paragraph *a* of section 105, where the taxation year ends before 28 February 2000, or under paragraph *a* of that section, where the taxation year ends after 27 February 2000, is exceeded by the aggregate of

i. the aggregate of all amounts each of which is an amount deducted under paragraph *b* of section 130 in computing the taxpayer's income from the business for a taxation year ending before the particular time, but after the taxpayer's adjustment time,

ii. the amount by which the aggregate of all amounts each of which is an amount deducted under paragraph *b* of section 130 in computing the taxpayer's income for a taxation year ending before the taxpayer's adjustment time exceeds the aggregate of all amounts each of which is an amount included under section 105 in computing that income for such a taxation year, and

iii. the aggregate of all amounts each of which is an amount by which the eligible intangible capital amount of the taxpayer in respect of the business is required to be reduced at or before the particular time under section 485.7; and

(*b*) the aggregate of all amounts each of which is equal to 3/4 of the amount by which an amount that, as a result of a disposition occurring before the particular time but after the taxpayer's adjustment time, the taxpayer is or may become entitled to receive, in respect of a business carried on or formerly

carried on by the taxpayer where the consideration given by the taxpayer therefor is such that, if any payment had been made by the taxpayer after 31 December 1971 for that consideration, the payment would have been an intangible capital amount of the taxpayer in respect of the business, exceeds all expenses made or incurred by the taxpayer for the purpose of giving that consideration, to the extent that they are not otherwise deductible in computing the taxpayer's income."

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

43. (1) Section 110.1 of the said Act is amended by replacing "under subparagraph ii of paragraph *b* of section 107" in subsection 1 by "under subparagraph *b* of the second paragraph of section 107".

(2) Subsection 1 applies in respect of dispositions made in taxation years that end after 27 February 2000.

44. (1) Section 130 of the said Act is amended

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

"**130.** Un contribuable peut toutefois déduire les montants suivants :";

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

"(*a*) subject to section 130.0.1, the prescribed part or amount of the capital cost of property to the taxpayer; and

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

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

45. (1) Section 142.1 of the said Act is replaced by the following section:

"**142.1.** A taxpayer who establishes that an amount included in computing an excess referred to in subparagraph *b* of the second paragraph of section 107 has become a bad debt in a taxation year in respect of one or more dispositions of intangible capital property by the taxpayer, shall deduct in computing income for the year the amount determined by the formula

(A + B) – (C + D + E + F + G).

In the formula provided for in the first paragraph,

(*a*) A is the lesser of

i. 1/2 of the aggregate of all amounts each of which is such an amount that was so established by the taxpayer to have become a bad debt in the year or a preceding taxation year, and

ii. the aggregate of all amounts each of which is an amount that would be determined under section 105.2 for the year or for a preceding taxation year that ends after 27 February 2000, if the formula provided for in the first paragraph of that section were read without reference to D;

(*b*) B is the amount by which 3/4 of the aggregate of all amounts each of which is such an amount that was so established by the taxpayer to have become a bad debt in the year or a preceding taxation year exceeds the aggregate of

i. 3/2 of the amount by which the amount determined under subparagraph *a* exceeds the portion of that amount that is included therein by reason of the application of subparagraph ii of that subparagraph in respect of taxation years that end after 27 February 2000 but before 18 October 2000, and

ii. 9/8 of the portion of the amount determined under subparagraph *a* that is included therein by reason of the application of subparagraph ii of that subparagraph in respect of taxation years that end after 27 February 2000 but before 18 October 2000;

(*c*) C is the aggregate of all amounts each of which is an amount determined under section 105 or 105.3 for the year or a preceding taxation year and in respect of which a deduction can reasonably be considered to have been claimed by the taxpayer under Title VI.5 of Book IV;

(*d*) D is 2/3 of the aggregate of all amounts each of which is an amount determined in respect of the taxpayer under subparagraph *d* of the second paragraph of section 105.2 for the year or a preceding taxation year that ends after 17 October 2000;

(*e*) E is 8/9 of the aggregate of all amounts each of which is an amount determined in respect of the taxpayer under subparagraph *d* of the second paragraph of section 105.2 for the year or a preceding taxation year that ends after 27 February 2000 but before 18 October 2000;

(*f*) F is the aggregate of all amounts each of which is an amount determined in respect of the taxpayer under subparagraph *d* of the second paragraph of section 105.2 for a preceding taxation year that ends before 28 February 2000; and

(*g*) G is the aggregate of all amounts each of which is an amount deducted by the taxpayer under this section for a preceding taxation year."

(2) Subsection 1 applies to taxation years that end after 27 February 2000. However, where section 142.1 of the said Act applies to taxation years that end before 18 October 2000,

(1) subparagraph i of subparagraph *a* of the second paragraph of that section shall be read with the fraction "1/2" replaced by the fraction "2/3"; and

(2) subparagraph *b* of the second paragraph of that section shall be read as follows:

"(*b*) B is the amount by which 3/4 of the aggregate of all amounts each of which is such an amount that was so established by the taxpayer to have become a bad debt in the year or a preceding taxation year exceeds 9/8 of the amount determined under subparagraph *a*;".

46. (1) The said Act is amended by inserting the following section after section 142.1:

"**142.2.** A taxpayer who establishes that an amount included in computing an excess referred to in subparagraph *b* of the second paragraph of section 107 has become a bad debt in a taxation year in respect of one or more dispositions of intangible capital property by the taxpayer, is deemed to have an allowable capital loss from a disposition of capital property in the year equal to the amount by which the amount determined under the second paragraph is exceeded by the lesser of

(*a*) the total of the amount determined under subparagraph *a* of the second paragraph of section 142.1 and 2/3 of the amount determined under subparagraph *b* of that second paragraph in respect of the taxpayer for the year; and

(*b*) the aggregate of all amounts each of which is, in respect of the taxpayer for the year,

i. the amount that would be determined under subparagraph *c* of the second paragraph of section 142.1 if each year referred to in that subparagraph ended after 17 October 2000 or is determined under subparagraph *d* of that second paragraph,

ii. 3/4 of the amount that would be determined under subparagraph *c* of the second paragraph of section 142.1 if each year referred to in that subparagraph ended after 27 February 2000 but before 18 October 2000 or is determined under subparagraph *e* of that second paragraph, and

iii. 2/3 of the amount that would be determined under subparagraph *c* of the second paragraph of section 142.1 if each year referred to in that subparagraph ended before 28 February 2000 or is determined under subparagraph *f* of that second paragraph.

The amount to which the first paragraph refers is equal to the aggregate of all amounts each of which is

(*a*) an amount that is deemed under this section to be an allowable capital loss of the taxpayer for a preceding taxation year that ends after 17 October 2000;

(*b*) 3/4 of an amount that is deemed under this section to be an allowable capital loss of the taxpayer for a preceding taxation year that ends after 27 February 2000 but before 18 October 2000; and

(*c*) 2/3 of an amount that is deemed under section 142.1 to be an allowable capital loss of the taxpayer for a preceding taxation year that ends before 28 February 2000."

(2) Subsection 1 applies to taxation years that end after 27 February 2000. However, where section 142.2 of the said Act applies to taxation years that end before 18 October 2000,

(1) the reference to the fraction "2/3" in subparagraph *a* and subparagraph iii of subparagraph *b* of the first paragraph of that section and subparagraph *c* of the second paragraph of that section shall be read as a reference to the fraction "8/9";

(2) the reference to "3/4 of the" in subparagraph ii of subparagraph *b* of the first paragraph of that section shall be read as a reference to the word "the"; and

(3) the reference to "3/4 of an" in subparagraph *b* of the second paragraph of that section shall be read as a reference to the word "an".

47. (1) Section 146.1 of the said Act is amended by striking out "or subsection 1.1 of section 180.1" in paragraph *b*.

(2) Subsection 1 applies from the taxation year 2001.

48. (1) Section 157 of the said Act is amended by replacing "3/4" in paragraph *g*.1 by "1/2".

(2) Subsection 1 applies in respect of amounts that become payable after 27 February 2000. However, where an amount becomes payable after that date but before 18 October 2000, the reference to the fraction "1/2" in paragraph *g*.1 of section 157 of the said Act shall be read as a reference to the fraction "2/3".

49. (1) Section 157.18 of the said Act is replaced by the following section :

"**157.18.** If an individual in respect of whom an amount may be deducted because of section 752.0.14 or 752.0.15 for a taxation year files with the individual's fiscal return under this Part for the year, other than a fiscal return filed under the second paragraph of section 429 or any of sections 681, 782 and 1003, a prescribed form containing the prescribed information, there may be deducted in computing the individual's income for the year from a business the amount determined by the formula

A × B/C.

In the formula provided for in the first paragraph,

(*a*) A is the lesser of

i. the amount by which the aggregate of all amounts each of which is the amount of a reimbursement or any other form of assistance, other than an amount that is included in computing the taxpayer's income and that is not deductible in computing the taxpayer's taxable income, that a taxpayer is or was entitled to receive in respect of an amount described in both subparagraphs 1 and 2, is exceeded by the aggregate of all amounts each of which is an amount

(1) that was paid in the year by the individual to a person who, at the time of the payment, is neither the individual's spouse nor under 18 years of age, on account of attendant care provided in Canada to the individual to enable the individual to perform the duties of an office or employment, to carry on a business either alone or as a partner actively engaged in the business, to carry on research or any similar work in respect of which the individual received a grant, or to attend an educational institution referred to in section 358.0.2, or a secondary school, at which the individual is enrolled in an educational program, and

(2) that is not included in computing a deduction under sections 752.0.11 to 752.0.13.0.1 for any taxation year, and

ii. 2/3 of the aggregate of all amounts each of which is

(1) an amount included under any of sections 32 to 58.3 in computing the individual's income for the year from an office or employment,

(2) the amount that would be the individual's income for the year from a business carried on either alone or as a partner actively engaged in a business if it were determined without reference to this section, or

(3) an amount included in computing the individual's income for the year under any of paragraphs *e*.2 to *e*.4 of section 311 or paragraph *g* or *h* of section 312 ;

(*b*) B is the amount determined under subparagraph 2 of subparagraph ii of subparagraph *a*; and

(*c*) C is the aggregate determined under subparagraph ii of subparagraph *a*.

However, an amount that is referred to in subparagraph i of subparagraph *a* of the second paragraph and that was paid by the individual may be included in computing a deduction under the first paragraph only if the payment is proven by filing with the Minister one or more receipts each of which was issued by the payee and contains, where the payee is an individual, the individual's Social Insurance Number."

(2) Subsection 1 applies from the taxation year 1998. However, where subparagraph *a* of the second paragraph of section 157.18 of the said Act applies to taxation years preceding the taxation year 2000,

(1) subparagraph 1 of subparagraph i shall be read as follows:

"(1) that was paid in the year by the individual to a person who, at the time of the payment, is neither the individual's spouse nor under 18 years of age, on account of attendant care provided in Canada to the individual to enable the individual to perform the duties of an office or employment, to carry on a business either alone or as a partner actively engaged in the business, or to carry on research or any similar work in respect of which the individual received a grant, and"; and

(2) subparagraph 3 of subparagraph ii shall be read without reference to "any of paragraphs *e*.2 to *e*.4 of section 311 or".

50. (1) Section 157.19 of the said Act is amended

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

"(*a*) subparagraph 1 of subparagraph i of subparagraph *a* of the second paragraph of that section 157.18 shall be read without reference to the words "in Canada";";

(2) by replacing "the second paragraph" in paragraph *b* by "the third paragraph".

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

51. Section 158.1 of the said Act is amended by replacing "des fonds autogénérés" in the French text of the definition of "droit aux produits" in the first paragraph by "du flux de trésorerie".

52. (1) Section 158.14 of the said Act is replaced by the following section:

"**158.14.** Subject to sections 158.1 and 158.13, this division does not apply to a taxpayer's matchable expenditure in respect of a right to receive production if

(*a*) no portion of the expenditure can reasonably be considered to have been paid to another taxpayer, or to a person with whom the other taxpayer does not deal at arm's length, to acquire the right to receive production from the other taxpayer and

i. the taxpayer's expenditure cannot reasonably be considered to relate to a tax shelter or tax shelter investment, within the meaning of section 851.38, and none of the main purposes for making the expenditure is that the taxpayer, or a person with whom the taxpayer does not deal at arm's length, obtain a tax benefit, or

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

(*b*) the expenditure is in respect of commissions or other expenses related to the issuance of an insurance policy for which all or a portion of a risk has been ceded to the taxpayer and both the taxpayer and the person to whom the expenditure is made or is to be made are insurers subject to the supervision of the Superintendent of Financial Institutions of Canada, in the case of an insurer that is required by law to report to the Superintendent of Financial Institutions of Canada, or where the insurer is an insurance corporation incorporated under the laws of a province, the superintendent of insurance or another officer or authority of that province or the Inspector General of Financial Institutions."

(2) Subsection 1 applies in respect of expenditures made after 17 November 1996.

53. (1) The said Act is amended by inserting the following before section 159

"§1. — *Canadian newspapers*".

(2) Subsection 1 has effect from 1 June 2000.

54. (1) Section 159 of the said Act is replaced by the following section:

"**159.** In this subdivision,

"Canadian citizen" includes the following persons and entities:

(*a*) a corporation or trust described in paragraph *c*.1 or *d* of section 998 formed in connection with a pension plan that exists for the benefit of individuals a majority of whom are Canadian citizens;

(*b*) a trust described in paragraph *h* or *i*.1 of section 998 the annuitant in respect of which is a Canadian citizen;

(*c*) a mutual fund trust, other than a mutual fund trust the majority of the units of which are held by citizens or subjects of a country other than Canada;

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

(*e*) an association, society or person described in paragraph *c* or *d* of the definition of "Canadian newspaper";

"Canadian issue" of a newspaper means an issue, including a special issue, that is typeset, printed and published in Canada and that is edited in Canada by individuals resident in Canada;

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

(*a*) a Canadian citizen;

(*b*) a partnership in which interests representing in value at least 3/4 of the total value of the partnership property are beneficially owned by one or more corporations described in paragraph *e*, one or more Canadian citizens or any combination thereof, and at least 3/4 of each income or loss of the partnership from any source is included in computing the income of one or more of those persons;

(*c*) an association or society of which at least 3/4 of the members are Canadian citizens;

(*d*) the State, Her Majesty in right of Canada or a province, other than Québec, or a municipality in Canada;

(*e*) a corporation that is incorporated under the laws of Canada or a province of which the chairperson or other presiding officer and at least 3/4 of the directors or other similar officers are Canadian citizens and that, if it is a corporation having capital stock, is

i. a public corporation a class or classes of shares of the capital stock of which are listed on a Canadian stock exchange other than a corporation controlled by citizens or subjects of a country other than Canada, or

ii. a corporation of which at least 3/4 of the shares having full voting rights under all circumstances, and shares having a fair market value of at least 3/4 of the fair market value of all of the issued shares of the corporation, are beneficially owned by Canadian citizens or by public corporations a class or classes of shares of the capital stock of which are listed on a Canadian stock exchange, other than a public corporation controlled by citizens or subjects of a country other than Canada;

"United States" means

(*a*) the United States of America, but does not include Puerto Rico, the Virgin Islands, Guam or any other United States territory or possession; and

(*b*) any areas beyond the territorial seas of the United States within which, in accordance with international law and its domestic laws, the United States may exercise rights with respect to the sea-bed and subsoil and the natural resources of those areas.

For the purposes of the definition of "Canadian issue" in the first paragraph, a newspaper issue is a Canadian issue of that newspaper even if the type for the advertisements and features is not set in Canada and if the comics supplements of that issue are not printed in Canada.

For the purposes of subparagraph ii of paragraph *e* of the definition of "Canadian newspaper" in the first paragraph, the following rules apply:

(*a*) where shares of a class of the capital stock of a corporation are owned, or deemed under this paragraph to be owned, at any time by another corporation, other than a public corporation a class or classes of shares of the capital stock of which are listed on a Canadian stock exchange, each shareholder of that other corporation shall be deemed to own at that time that proportion of the number of such shares of that class that the fair market value of the shares of the capital stock of the other corporation owned at that time by the shareholder is of the fair market value of all the issued shares of the capital stock of the other corporation outstanding at that time; and

(*b*) where at any time shares of a class of the capital stock of a corporation are owned, or deemed under this paragraph to be owned, by a partnership, each member of the partnership shall be deemed to own at that time the least proportion of the number of such shares of that class that the member's share of the income or loss of the partnership from any source for its fiscal period that includes that time is of the income or loss of the partnership from that source for its fiscal period that includes that time.

For the purposes of subparagraph *b* of the third paragraph, where the income and loss of a partnership from any source for a fiscal period are nil, the partnership shall be deemed to have had income from that source for that fiscal period in the amount of $1,000,000."

(2) Subsection 1 applies in respect of advertisements placed in an issue dated after 31 May 2000.

55. (1) The said Act is amended by inserting the following after section 159

"**159.1.** Where the right to produce or publish a newspaper is held by a person, partnership, association or society described in the definition of "Canadian newspaper" in section 159 on behalf of a trust or an estate, the newspaper is not a Canadian newspaper unless each beneficiary under the trust or estate is a person, partnership, association or society described in that definition.

"**159.2.** A newspaper is deemed to be a Canadian newspaper until the end of the twelfth month that follows the month in which it would, but for this section, cease to be a Canadian newspaper.

"**159.3.** Where at any time one or more persons or entities that are not described in any of paragraphs *a* to *e* of the definition of "Canadian newspaper" in section 159 have any direct or indirect influence that, if exercised, would result in control in fact of a person or entity that holds a right to produce or publish issues of a newspaper, the newspaper is deemed not to be a Canadian newspaper at that time.

"**159.4.** In computing income, no deduction shall be made by a taxpayer in respect of an otherwise deductible outlay or expense of the taxpayer for advertising space in an issue of a newspaper for an advertisement directed primarily to a market in Canada unless

(*a*) the issue is a Canadian issue of a Canadian newspaper; and

(*b*) the issue would be a Canadian issue of a Canadian newspaper were it not that the issue was typeset or printed entirely in the United States or partly in the United States and partly in Canada.

"**159.5.** Section 159.4 does not apply in respect of an advertisement in a special issue or edition of a newspaper that is edited in whole or in part and printed and published outside Canada if that special issue or edition is devoted to features or news related primarily to Canada and the publishers thereof publish such issue or edition not more frequently than twice a year.

"§2. — *Periodicals*

"**159.6.** In this subdivision,

"advertisement directed at the Canadian market" has the meaning assigned by subsection 1 of section 19.01 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

"author" includes a writer, a journalist, an illustrator and a photographer;

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

(*a*) the author of which is a Canadian citizen or a permanent resident within the meaning of the Immigration Act (Revised Statutes of Canada, 1985, chapter I-2); or

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

"periodical" has the meaning assigned by subsection 1 of section 19.01 of the Income Tax Act.

For the purposes of the definition of "original editorial content" in the first paragraph, the following rules apply:

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

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

"**159.7.** A taxpayer may deduct in computing income, in respect of an outlay or expense of the taxpayer for advertising space in an issue of a periodical for an advertisement directed at the Canadian market, only 1/2 of the amount of that outlay or expense if

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

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

"§3. — *Broadcasting*

"**159.8.** In this subdivision,

"foreign broadcasting undertaking" means a broadcasting undertaking or a network operation located outside Canada or on a ship or aircraft not registered in Canada;

"operation of a broadcasting network" includes any activity involving two or more broadcasting undertakings whereby control over all or any part of the programs or program schedules of any of the broadcasting undertakings is delegated to a network operator.

"**159.9.** In computing income, no deduction shall be made by a taxpayer in respect of an outlay or expense of the taxpayer for an advertisement

directed primarily to a market in Canada and broadcast by a foreign broadcasting undertaking."

(2) Subsection 1 applies

(1) except where it enacts subdivision 3 of Division XI of Chapter III of Title III of Book III of Part I of the said Act, in respect of an advertisement in an issue dated after 31 May 2000; and

(2) where it enacts subdivision 3 of Division XI of Chapter III of Title III of Book III of Part I of the said Act, in respect of an outlay or expense made or incurred after 31 May 2000.

56. (1) Section 170 of the said Act is replaced by the following section:

"**170.** The proportion to which section 169 refers is the proportion that the amount referred to in the second paragraph is of the average, in this section referred to as the "average outstanding debts", of all amounts each of which is, in respect of a month that ends in the year, the greatest amount at any time in the month of the corporation's outstanding debts to specified persons not resident in Canada.

The amount to which the first paragraph refers is equal to the amount by which the corporation's average outstanding debts for the year exceeds the amount equal to twice the total of

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

(*b*) the average of all amounts each of which is the corporation's contributed surplus at the beginning of a month that ends in the year, to the extent that it was contributed by a specified shareholder not resident in Canada of the corporation; and

(*c*) the average of all amounts each of which is the corporation's paid-up capital at the beginning of a month that ends in the year, excluding the paid-up capital in respect of shares of any class of the capital stock of the corporation owned by a person other than a specified shareholder not resident in Canada of the corporation."

(2) Subsection 1 applies to taxation years that begin after 31 December 2000.

57. (1) Section 172 of the said Act is amended by replacing the portion before subparagraph *a* of the first paragraph by the following:

"**172.** Notwithstanding any other provision of this Part, other than section 173.1, for the purposes of this section and sections 169 to 171 and 174,".

(2) Subsection 1 applies to taxation years that begin after 31 December 2000.

58. (1) Section 173 of the said Act is repealed.

(2) Subsection 1 applies to taxation years that begin after 31 December 2000.

59. (1) Section 173.1 of the said Act is amended by replacing the portion before paragraph *a* by the following:

"**173.1.** For the purposes of this section and sections 169 to 172 and 174, where a person would, but for this section, be a specified shareholder of a corporation at any time, the person is deemed not to be a specified shareholder of the corporation at that time if".

(2) Subsection 1 applies to taxation years that begin after 31 December 2000.

60. Section 175.1.1 of the said Act is amended

(1) by striking out "referred to therein" in the English text of the portion of the second paragraph before subparagraph *a*;

(2) by striking out "y visé" in the French text of subparagraph *a* of the second paragraph;

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

"*b*) le paiement est soit un paiement conditionnel à l'usage d'un bien ou à la production qui en découle ou établi en fonction d'un tel usage ou d'une telle production, soit un paiement calculé en fonction des recettes, du profit, du flux de trésorerie, du prix des marchandises ou de tout autre critère semblable, soit un paiement calculé en fonction des dividendes payés ou à payer aux actionnaires d'une catégorie quelconque d'actions du capital-actions d'une société."

61. (1) Section 176 of the said Act is amended

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

"**176.** Subject to section 176.1, a taxpayer may deduct such part of an amount, other than an amount referred to in the second paragraph, that is not otherwise deductible in computing the income of the taxpayer and that is an expense incurred by the taxpayer in the year or a preceding taxation year";

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

"The amount to which the first paragraph refers is

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

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

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

(2) Subsection 1 applies in respect of expenses incurred by a taxpayer after 30 November 1999, other than expenses incurred pursuant to a written agreement made by the taxpayer before 1 December 1999.

62. Section 176.5 of the French text of the said Act is amended by replacing paragraphs *a* and *b* by the following paragraphs:

"*a*) soit un paiement conditionnel à l'usage d'un bien ou à la production qui en découle ou établi en fonction d'un tel usage ou d'une telle production;

"*b*) soit un paiement calculé en fonction des recettes, du profit, du flux de trésorerie, du prix des marchandises ou de tout autre critère semblable;".

63. (1) Section 179 of the said Act is amended by replacing "3/4" wherever it appears in paragraph *b* of subsection 1 by "1/2".

(2) Subsection 1 applies in respect of amounts that become payable after 27 February 2000. However, where amounts become payable after that date and before 18 October 2000, paragraph *b* of subsection 1 of section 179 of the said Act shall be read as if the reference to the fraction "1/2", wherever it appears, were a reference to the fraction "2/3".

64. (1) Section 188 of the said Act is amended

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

"(*c*) for the purposes of subparagraph i of subparagraph *a* of the second paragraph of section 107, the amount deducted by the taxpayer by reason of paragraph *a* is deemed to be an amount deducted under paragraph *b* of section 130 in computing the taxpayer's income from the business for the taxation year that includes that time; and";

(2) by replacing "aux fins" in the French text of paragraph *d* by "pour l'application".

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

65. (1) Section 189 of the said Act is amended

(1) by replacing "under subparagraph i of paragraph *b* of section 107" in paragraph *b* by "under subparagraph *a* of the second paragraph of section 107";

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

"(*c*) for the purpose of computing the eligible intangible capital amount in respect of the business of the spouse or corporation after that time, an amount equal to the amount determined under subparagraph *a* of the second paragraph of section 107 in respect of the business of the individual at that time shall be added to the amount otherwise determined under subparagraph i of that subparagraph *a*; and

"(*d*) for the purpose of computing after that time, in respect of any subsequent disposition of property of the business, the amount to be included under paragraph *b* of section 105 in computing the income of the spouse or corporation, an amount equal to the amount determined under subparagraph ii of subparagraph *a* of the second paragraph of section 107 in respect of the business of the individual immediately before the individual ceases carrying on business shall be added to the amount otherwise determined under that subparagraph ii."

(2) Paragraph 1 of subsection 1 applies to taxation years that end after 27 February 2000, except where the time of the deemed acquisition is in a taxation year of the individual that ends before 28 February 2000.

(3) Paragraph 2 of subsection 1 applies to taxation years that end after 27 February 2000. However,

(1) where paragraph *c* of section 189 of the said Act applies in respect of a time referred to in that paragraph that is in a taxation year of the individual that ends before 28 February 2000, that paragraph shall be read as follows:

"(*c*) for the purpose of computing the eligible intangible capital amount in respect of the business of the spouse or corporation after that time, an amount equal to the amount determined under subparagraph i of paragraph *b* of section 107 in respect of the business of the individual at that time shall be added to the amount otherwise determined under subparagraph i of subparagraph *a* of the second paragraph of that section; and";

(2) where paragraph *d* of section 189 of the said Act applies in respect of the time immediately before the time the individual ceases carrying on the individual's business and which is in a taxation year of the individual that ends before 28 February 2000, that paragraph shall be read as follows:

"(*d*) for the purpose of computing after that time, in respect of any subsequent disposition of property of the business, the amount to be included under paragraph *b* of section 105 in computing the income of the spouse or

corporation, an amount equal to the amount determined under subparagraph 2 of subparagraph i of paragraph *b* of section 107 in respect of the business of the individual immediately before the individual ceases carrying on business shall be added to the amount otherwise determined under subparagraph ii of subparagraph *a* of the second paragraph of that section."

66. (1) Section 231 of the said Act is amended by replacing the first paragraph by the following paragraph:

"**231.** Subject to sections 231.0.1 to 231.2, a taxable capital gain, an allowable capital loss or an allowable business investment loss is equal to 1/2 of the capital gain, 1/2 of the capital loss or 1/2 of the business investment loss, as the case may be, from the disposition of property."

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

67. (1) The said Act is amended by inserting the following sections after section 231:

"**231.0.1.** For the purposes of the first paragraph of section 231 in respect of a taxpayer for any following taxation year of the taxpayer, the references to the fraction "1/2" in that paragraph shall be read as a reference to the following fraction:

(*a*) if the taxation year begins after 28 February 2000 and ends before 18 October 2000, 2/3;

(*b*) if the taxation year includes 28 February 2000 but does not include 18 October 2000,

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

ii. 3/4, where the amount of the taxpayer's net capital losses from dispositions of property in the first period exceeds the amount of the taxpayer's net capital gains from dispositions of property in the second period,

iii. 2/3, where the amount of the taxpayer's net capital gains from dispositions of property in the first period is less than the amount of the taxpayer's net capital losses from dispositions of property in the second period,

iv. 2/3, where the amount of the taxpayer's net capital losses from dispositions of property in the first period is less than the amount of the taxpayer's net capital gains from dispositions of property in the second period,

v. the fraction determined under section 231.0.2, where the taxpayer has only net capital gains, or only net capital losses, from dispositions of property in each of the first and second periods,

vi. 2/3, where the net capital gains and net capital losses of the taxpayer for the year are nil, and

vii. 2/3, in any other case;

(*c*) if the taxation year begins after 27 February 2000 and includes 18 October 2000,

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

ii. 2/3, where the amount of the taxpayer's net capital losses from dispositions of property in the first period exceeds the amount of the taxpayer's net capital gains from dispositions of property in the second period,

iii. 1/2, where the amount of the taxpayer's net capital gains from dispositions of property in the first period is less than the amount of the taxpayer's net capital losses from dispositions of property in the second period,

iv. 1/2, where the amount of the taxpayer's net capital losses from dispositions of property in the first period is less than the amount of the taxpayer's net capital gains from dispositions of property in the second period,

v. the fraction determined under section 231.0.3, where the taxpayer has only net capital gains, or only net capital losses, from dispositions of property in each of the first and second periods,

vi. 1/2, where the net capital gains and net capital losses of the taxpayer for the year are nil, and

vii. 1/2, in any other case; and

(*d*) if the taxation year includes 27 February 2000 and 18 October 2000,

i. 3/4, where the amount by which the amount of the taxpayer's net capital gains from dispositions of property in the period that begins at the beginning of the year and ends on 27 February 2000, in this paragraph referred to as the "first period", exceeds the amount of the taxpayer's net capital losses from dispositions of property in the period that begins on 28 February 2000 and ends on 17 October 2000, in this paragraph referred to as the "second period",

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

ii. 3/4, where the amount by which the amount of the taxpayer's net capital losses from dispositions of property in the first period exceeds the amount of the taxpayer's net capital gains from dispositions of property in the second period, exceeds the amount of the taxpayer's net capital gains from dispositions of property in the third period,

iii. 2/3, where the amount by which the amount of the taxpayer's net capital gains from dispositions of property in the second period exceeds the amount of the taxpayer's net capital losses from dispositions of property in the first period, exceeds the amount of the taxpayer's net capital losses from dispositions of property in the third period,

iv. 2/3, where the amount by which the amount of the taxpayer's net capital losses from dispositions of property in the second period exceeds the amount of the taxpayer's net capital gains from dispositions of property in the first period, exceeds the amount of the taxpayer's net capital gains from dispositions of property in the third period,

v. the fraction determined under section 231.0.4, where the taxpayer has net capital gains in each of the first and second periods and the total amount of those net capital gains in those periods exceeds the amount of the taxpayer's net capital losses in the third period,

vi. the fraction determined under section 231.0.5, where the taxpayer has net capital losses in each of the first and second periods and the total amount of those net capital losses in those periods exceeds the amount of the taxpayer's net capital gains in the third period,

vii. the fraction determined under section 231.0.6, where the taxpayer has only net capital gains, or only net capital losses, from dispositions of property in each of the first, second and third periods,

viii. the fraction determined under section 231.0.7, where the amount of the taxpayer's net capital gains from dispositions of property in the first period exceeds the amount of the taxpayer's net capital losses from dispositions of property in the second period and the taxpayer has net capital gains from dispositions of property in the third period,

ix. the fraction determined under section 231.0.8, where the amount of the taxpayer's net capital losses from dispositions of property in the first period exceeds the amount of the taxpayer's net capital gains from dispositions of property in the second period and the taxpayer has net capital losses from dispositions of property in the third period,

x. the fraction determined under section 231.0.9, where the amount of the taxpayer's net capital gains from dispositions of property in the second period exceeds the amount of the taxpayer's net capital losses from dispositions of property in the first period and the taxpayer has net capital gains from dispositions of property in the third period,

xi. the fraction determined under section 231.0.10, where the amount of the taxpayer's net capital losses from dispositions of property in the second period exceeds the amount of the taxpayer's net capital gains from dispositions of property in the first period and the taxpayer has net capital losses from dispositions of property in the third period, and

xii. 1/2, in any other case.

"**231.0.2.** The fraction referred to in subparagraph v of paragraph *b* of section 231.0.1 in respect of a taxation year of a taxpayer is determined by the formula

[(A × 3/4) + (B × 2/3)] / (A + B).

In the formula provided for in the first paragraph,

(*a*) A is the taxpayer's net capital gains or net capital losses, as the case may be, from dispositions of property in the period that begins at the beginning of the year and ends on 27 February 2000; and

(*b*) B is the taxpayer's net capital gains or net capital losses, as the case may be, from dispositions of property in the period that begins on 28 February 2000 and ends at the end of the year.

"**231.0.3.** The fraction referred to in subparagraph v of paragraph *c* of section 231.0.1 in respect of a taxation year of a taxpayer is determined by the formula

[(A × 2/3) + (B × 1/2)] / (A + B).

In the formula provided for in the first paragraph,

(*a*) A is the taxpayer's net capital gains or net capital losses, as the case may be, from dispositions of property in the period that begins at the beginning of the year and ends on 17 October 2000; and

(*b*) B is the taxpayer's net capital gains or net capital losses, as the case may be, from dispositions of property in the period that begins on 18 October 2000 and ends at the end of the year.

"**231.0.4.** The fraction referred to in subparagraph v of paragraph *d* of section 231.0.1 in respect of a taxation year of a taxpayer is determined by the formula

[(A × 3/4) + (B × 2/3)] / (A + B).

In the formula provided for in the first paragraph,

(*a*) A is the taxpayer's net capital gains from dispositions of property in the period that begins at the beginning of the year and ends on 27 February 2000; and

(*b*) B is the taxpayer's net capital gains from dispositions of property in the period that begins on 28 February 2000 and ends on 17 October 2000.

"**231.0.5.** The fraction referred to in subparagraph vi of paragraph *d* of section 231.0.1 in respect of a taxation year of a taxpayer is determined by the formula

[(A × 3/4) + (B × 2/3)] / (A + B).

In the formula provided for in the first paragraph,

(*a*) A is the taxpayer's net capital losses from dispositions of property in the period that begins at the beginning of the year and ends on 27 February 2000; and

(*b*) B is the taxpayer's net capital losses from dispositions of property in the period that begins on 28 February 2000 and ends on 17 October 2000.

"**231.0.6.** The fraction referred to in subparagraph vii of paragraph *d* of section 231.0.1 in respect of a taxation year of a taxpayer is determined by the formula

[(A × 3/4) + (B × 2/3) + (C × 1/2)] / (A + B + C).

In the formula provided for in the first paragraph,

(*a*) A is the taxpayer's net capital gains or net capital losses, as the case may be, from dispositions of property in the period that begins at the beginning of the year and ends on 27 February 2000;

(*b*) B is the taxpayer's net capital gains or net capital losses, as the case may be, from dispositions of property in the period that begins on 28 February 2000 and ends on 17 October 2000; and

(*c*) C is the taxpayer's net capital gains or net capital losses, as the case may be, from dispositions of property in the period that begins on 18 October 2000 and ends at the end of the year.

"**231.0.7.** The fraction referred to in subparagraph viii of paragraph *d* of section 231.0.1 in respect of a taxation year of a taxpayer is determined by the formula

[(A × 3/4) + (B × 1/2)] / (A + B).

In the formula provided for in the first paragraph,

(*a*) A is the amount by which the amount of the taxpayer's net capital gains from dispositions of property in the period that begins at the beginning of the year and ends on 27 February 2000 exceeds the amount of the taxpayer's net capital losses from dispositions of property in the period that begins on 28 February 2000 and ends on 17 October 2000; and

(*b*) B is the taxpayer's net capital gains from dispositions of property in the period that begins on 18 October 2000 and ends at the end of the year.

"**231.0.8.** The fraction referred to in subparagraph ix of paragraph *d* of section 231.0.1 in respect of a taxation year of a taxpayer is determined by the formula

[(A × 3/4) + (B × 1/2)] / (A + B).

In the formula provided for in the first paragraph,

(*a*) A is the amount by which the amount of the taxpayer's net capital losses from dispositions of property in the period that begins at the beginning of the year and ends on 27 February 2000 exceeds the amount of the taxpayer's net capital gains from dispositions of property in the period that begins on 28 February 2000 and ends on 17 October 2000; and

(*b*) B is the taxpayer's net capital losses from dispositions of property in the period that begins on 18 October 2000 and ends at the end of the year.

"**231.0.9.** The fraction referred to in subparagraph x of paragraph *d* of section 231.0.1 in respect of a taxation year of a taxpayer is determined by the formula

[(A × 2/3) + (B × 1/2)] / (A + B).

In the formula provided for in the first paragraph,

(*a*) A is the amount by which the amount of the taxpayer's net capital gains from dispositions of property in the period that begins on 28 February 2000 and ends on 17 October 2000 exceeds the amount of the taxpayer's net capital losses from dispositions of property in the period that begins at the beginning of the year and ends on 27 February 2000; and

(*b*) B is the taxpayer's net capital gains from dispositions of property in the period that begins on 18 October 2000 and ends at the end of the year.

"**231.0.10.** The fraction referred to in subparagraph xi of paragraph *d* of section 231.0.1 in respect of a taxation year of a taxpayer is determined by the formula

[(A × 2/3) + (B × 1/2)] / (A + B).

In the formula provided for in the first paragraph,

(*a*) A is the amount by which the amount of the taxpayer's net capital losses from dispositions of property in the period that begins on 28 February 2000 and ends on 17 October 2000 exceeds the amount of the taxpayer's net capital gains from dispositions of property in the period that begins at the beginning of the year and ends on 27 February 2000; and

(*b*) B is the taxpayer's net capital losses from dispositions of property in the period that begins on 18 October 2000 and ends at the end of the year.

"**231.0.11.** For the purpose of determining which fraction in paragraphs *a* to *d* of section 231.0.1 applies to a taxpayer for a taxation year, the following rules apply:

(*a*) the net capital gains of the taxpayer from dispositions of property in a period is the amount by which the taxpayer's capital gains from dispositions of property in the period exceed the taxpayer's capital losses from dispositions of property in the period;

(*b*) the net capital losses of the taxpayer from dispositions of property in a period is the amount by which the taxpayer's capital losses from dispositions of property in the period exceed the taxpayer's capital gains from dispositions of property in the period;

(*c*) the net amount included as a capital gain of the taxpayer for a taxation year from a disposition to which section 231.1 or 231.2 applies is deemed to be equal to 1/2 of the capital gain;

(*d*) the net amount included as a capital gain of the taxpayer for a particular taxation year from a disposition of property in a preceding taxation year as a consequence of the application of the second paragraph of section 234 is deemed to be a capital gain of the taxpayer from a disposition of property on the first day of the particular year;

(*e*) each capital loss that is a business investment loss shall be determined without reference to sections 264.4 and 264.5;

(*f*) where an amount is included in computing the income of the taxpayer for the year by reason of section 485.13 in respect of a commercial obligation that is settled, the amount that would be determined by the formula provided for in the first paragraph of that section in respect of the obligation, if the value of E in that formula were 1, is deemed to be a capital gain of the taxpayer from a disposition of property on the day on which the settlement occurs;

(*g*) the capital gains and losses of the taxpayer from dispositions of property, other than taxable Canadian property, while the taxpayer is not resident in Canada are deemed to be nil;

(*h*) where an election is made by a taxpayer for a year under paragraph *d* of section 668.5 or any of sections 668.6, 1106.0.3, 1106.0.5, 1113.3, 1113.4, 1116.3 and 1116.5, the portion of the taxpayer's net capital gains for the year that are to be treated as being in respect of capital gains from dispositions of property that occurred in a particular period in the year is that proportion of those net capital gains that the number of days in the particular period is of the number of days in the year;

(*i*) where the election made for the year under paragraph *d* of section 668.5, or section 668.6, was made by a personal trust, the portion of the taxpayer's net capital gains for the year that are to be treated as being in respect of capital gains from dispositions of property that occurred in a particular period in the year is that proportion of those net capital gains that the number of days in the particular period is of the number of days that are in all periods in the year in which a net gain was realized;

(*j*) where an amount is designated under section 668 in respect of a beneficiary by a trust in respect of the net taxable capital gains of the trust for a taxation year of the trust and the trust does not elect under paragraph *d* of section 668.5, for the year, the deemed gains of the beneficiary referred to in section 668.5 are deemed to have been realized in each period in the year in a proportion that is equal to the same proportion that the net capital gains of the trust realized by the trust in that period is of the aggregate of the net capital gains realized by the trust in the year;

(*k*) where in the course of administering the estate of a deceased taxpayer, a capital loss from a disposition of property by the legal representative of the deceased taxpayer is deemed under paragraph *a* of section 1054 to be a capital loss of the deceased taxpayer from the disposition of property by the taxpayer in the taxpayer's last taxation year and not to be a capital loss of the estate, the capital loss is deemed to be from the disposition of a property by the taxpayer immediately before the taxpayer's death;

(*l*) each capital gain referred to in paragraph *a* of section 668.5 in respect of a beneficiary shall be determined as if no amount had been claimed by the beneficiary for the purposes of that paragraph;

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

(*n*) the net amount included as a capital gain of a taxpayer for a taxation year because of the granting of an option in respect of which section 294 applies is deemed to be a capital gain of the taxpayer from a disposition of property on the day on which the option was granted;

(*o*) the net amount included under section 295 as a capital gain of a corporation for a taxation year because of the expiration of an option that was granted by the corporation is deemed to be a capital gain of the corporation from a disposition of property on the day on which the option expired;

(*p*) the net amount included under section 295.1 as a capital gain of a trust for a taxation year because of the expiration of an option that was granted by the trust is deemed to be a capital gain of the trust from a disposition of property on the day on which the option expired; and

(*q*) the net amount included as a capital gain of a taxpayer for a taxation year by reason of sections 296 and 296.1 is deemed to be a capital gain of the taxpayer from a disposition of property on the day on which the option was exercised."

(2) Subsection 1 applies to taxation years that end after 27 February 2000. However, where paragraph *c* of section 231.0.11 of the said Act applies to taxation years that end before 15 March 2000, it shall be read as if the reference to "section 231.1 or 231.2" were a reference to "section 231.2".

68. (1) Section 231.1 of the said Act is amended by replacing the portion before paragraph *b* by the following:

"**231.1.** The taxable capital gain for a taxation year from the disposition of a property after 14 March 2000 and before 1 January 2002 is, subject to section 231.3, equal to 1/4 of the capital gain from the disposition of the property where the disposition is

(*a*) a gift made to a qualified donee, other than a private foundation, of a property that is

i. a share, debt or right listed on a Canadian stock exchange or a foreign stock exchange,

ii. a share of the capital stock of a mutual fund corporation,

iii. a unit of a mutual fund trust,

iv. an interest in a trust created in respect of a segregated fund, within the meaning of section 851.2, or

v. a bond, debenture, note, obligation secured by hypothec or mortgage or similar obligation of or guaranteed by the Government of Canada or of the government of a province or a mandatary or an agent of that government; or".

(2) Subsection 1 applies in respect of gifts made after 14 March 2000.

69. (1) The said Act is amended by inserting the following sections after section 231.1:

"**231.2.** The taxable capital gain for a taxation year from the disposition of a property is, subject to section 231.3, equal to 1/4 of the capital gain from the disposition of the property where the disposition is

(*a*) a gift made to a qualified donee, other than a private foundation, of a property described, in respect of the taxpayer, in section 710.0.1 or in the definition of "qualified property" in the first paragraph of section 752.0.10.1; or

(*b*) a deemed disposition by reason of the application of Division III of Chapter III of Title VII of Book III, the property is that of a deceased individual and the individual is deemed, pursuant to section 752.0.10.10, to have made a gift referred to in paragraph *a* in respect of the property.

"**231.3.** For the purposes of sections 231.1 and 231.2, where the taxation year of the donor includes 28 February 2000 or 17 October 2000, or begins after 28 February 2000 and ends before 17 October 2000, the fraction "1/4" in the portion before paragraph *a* of either of those sections shall be replaced by the fraction obtained by multiplying the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the donor for the year by 1/2."

(2) Subsection 1 applies in respect of gifts made after 27 February 2000. However, where section 231.3 of the said Act applies in respect of gifts made before 15 March 2000, the references to "sections 231.1 and 231.2" and "either of those sections" shall be read as references to "section 231.2" and "that section", respectively.

70. (1) Section 234.0.1 of the said Act is amended by striking out ", as defined in paragraph *b* of section 985.1," in the portion before paragraph *a*.

(2) Subsection 1 has effect from 1 January 1999.

71. (1) Section 241 of the said Act is replaced by the following section:

"**241.** A loss from the disposition of a property shall not be allowed where the disposition was in favour of

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

(*b*) a trust governed by a registered retirement savings plan under which the taxpayer or the taxpayer's spouse is an annuitant or becomes, within 60 days after the end of the year, an annuitant."

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

72. (1) Section 247.2 of the said Act is amended

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

"**247.2.** Where, at any time in a taxation year, an individual owns capital property that is a share of a class of the capital stock of a corporation

that, at that time, is a small business corporation and, immediately after that time, ceases to be a small business corporation because a class of the shares of its capital stock or the capital stock of another corporation is listed on a Canadian stock exchange or a foreign stock exchange and the individual makes a valid election under subsection 1 of section 48.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the share, the individual is deemed, except for the purposes of Division VI of Chapter II of Title II, Division IX of Chapter V of Title III and section 725.3";

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

"ii. such amount as is designated under subparagraph ii of paragraph *c* of subsection 1 of section 48.1 of the Income Tax Act in respect of the share, not exceeding the fair market value of the share at that time, and".

(2) Paragraph 1 of subsection 1, except where it inserts "or the capital stock of another corporation" in the portion of section 247.2 of the said Act before paragraph *a*, and paragraph 2 of that subsection 1 apply

(1) in respect of an individual who makes, after 5 July 2001, a valid election under subsection 1 of section 48.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of a share even if the individual made, before 6 July 2001, the election under the portion of section 247.2 of the Taxation Act before paragraph *a*, amended by paragraph 1 of subsection 1, in respect of the share; or

(2) in respect of an individual who has made, before 6 July 2001, a valid election under subsection 1 of section 48.1 of the Income Tax Act in respect of a share and who did not make, before that date, the election under the portion of section 247.2 of the Taxation Act before paragraph *a*, amended by paragraph 1 of subsection 1, in respect of the share if the individual elects by notifying the Minister of Revenue in writing at the latest on the individual's filing-due date for the individual's taxation year that includes 3 July 2003 to have the portion of that section 247.2 before paragraph *a*, amended by paragraph 1 of subsection 1, apply in respect of the share.

(3) Paragraph 1 of subsection 1, where it inserts "or the capital stock of another corporation" in the portion of section 247.2 of the said Act before paragraph *a*, applies in respect of a corporation that ceases to be a small business corporation after 31 December 1999. In addition, where a corporation ceases to be a Canadian-controlled private corporation in a taxation year solely by reason of the application of subsection 1 of section 13, an individual who made, before 6 July 2001, the election under the portion of section 247.2 of the said Act before paragraph *a*, amended by paragraph 1 of subsection 1, in the prescribed form in respect of the share for the taxation year 1999 or 2000 is deemed to have made the election at the latest on the individual's filing-due date for that taxation year.

73. (1) The said Act is amended by inserting the following section after section 247.2:

"**247.2.1.** An individual who makes a valid election under subsection 1 of section 48.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of a share referred to in section 247.2, shall file with the Minister the prescribed form along with a copy of every document sent to the Minister of National Revenue in connection with that election and, as the case may be, an estimate by the individual of the penalty under section 247.5."

(2) Subsection 1 applies

(1) in respect of an individual who makes, after 5 July 2001, a valid election under subsection 1 of section 48.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of a share referred to in section 247.2 of the Taxation Act even if the individual made, before 6 July 2001, the election under the portion of section 247.2 of the said Act before paragraph *a*, amended by paragraph 1 of subsection 1 of section 72, in respect of the share; or

(2) in respect of an individual who made, before 6 July 2001, a valid election under subsection 1 of section 48.1 of the Income Tax Act in respect of a share referred to in section 247.2 of the Taxation Act and who did not make, before that date, the election under the portion of section 247.2 of the said Act before paragraph *a*, amended by paragraph 1 of subsection 1 of section 72, in respect of the share if the individual elects by notifying the Minister of Revenue in writing at the latest on the individual's filing-due date for the individual's taxation year that includes 3 July 2003 to have the portion of that section 247.2 before paragraph *a*, amended by paragraph 1 of subsection 1 of section 72, apply in respect of the share.

74. (1) Sections 247.3 and 247.4 of the said Act are repealed.

(2) Subsection 1 has effect from 6 July 2001.

75. (1) Section 247.5 of the said Act is amended by replacing the portion before paragraph *b* by the following:

"**247.5.** For the purposes of section 247.2.1, where an individual makes a valid election for a taxation year in respect of a share, under subsection 1 of section 48.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), and the individual files with the Minister, after the individual's filing-due date for the year, the prescribed form along with a copy

of every document sent to the Minister of National Revenue in connection with that election, the individual is required to pay a penalty equal to the lesser of

(*a*) 0.25% of the amount by which the proceeds of disposition, determined under section 247.2, of the share exceed the amount referred to in subparagraph i of paragraph *a* of that section in respect of the share, for each month or part of a month during the period beginning on the individual's filing-due date for the year and ending on the day on which the prescribed form and required documents are filed with the Minister; and".

(2) Subsection 1 applies in respect of an individual who makes, after 5 July 2001, a valid election under subsection 1 of section 48.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of a share, except where the election is made in the following circumstances:

(1) a corporation ceases to be a small business corporation after 31 December 1999 because the corporation ceases to be a Canadian-controlled private corporation in a taxation year solely by reason of the application of subsection 1 of section 13;

(2) the individual makes in respect of the share the election under subsection 1 of section 48.1 of the Income Tax Act for the taxation year 1999 or 2000 at the latest on the individual's filing-due date for the taxation year 2001;

(3) the individual files with the Minister of Revenue the prescribed form along with a copy of every document sent to the Minister of National Revenue in connection with the election at the latest on the individual's filing-due date for the taxation year 2003.

76. (1) Section 247.6 of the said Act is replaced by the following section:

"**247.6.** The Minister shall examine with dispatch the prescribed form and documents sent to the Minister under section 247.2.1, assess the penalty payable and send a notice of assessment to the individual, who shall pay forthwith to the Minister any unpaid balance of the penalty."

(2) Subsection 1 has effect from 6 July 2001.

77. (1) Section 248 of the said Act is replaced by the following section:

"**248.** For the purposes of this Title, the disposition of property includes, except as expressly otherwise provided,

(*a*) any transaction or event entitling to proceeds of disposition of the property;

(*b*) any transaction or event by which,

i. where the property is a share, bond, debenture, bill, obligation secured by hypothec or mortgage, agreement of sale, debt or other similar property, or an interest in it, the property is redeemed in whole or in part or is cancelled,

ii. where the property is a debt or any other right to receive an amount, the debt or other right is settled or cancelled,

iii. where the property is a share, the share is converted because of an amalgamation or merger,

iv. where the property is an option to acquire or dispose of property, the option expires, and

v. a trust, that can reasonably be considered to act as agent or mandatary for all the beneficiaries under the trust with respect to all dealings with all of the trust's property, ceases to act as agent or mandatary for a beneficiary under the trust in respect of any dealing with any of the trust's property, unless the trust is described in any of subparagraphs *a* to *d* of the third paragraph of section 647;

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

(*d*) where the property is, or is part of, a taxpayer's capital interest in a trust, a payment after 31 December 1999 to the taxpayer from the trust that can reasonably be considered to have been made because of the taxpayer's capital interest in the trust, except as provided by subparagraphs *d* and *e* of the second paragraph.

The disposition of property does not include

(*a*) any transfer of the property as a consequence of which there is no change in the beneficial ownership of the property, except where the transfer is

i. from a person or a partnership to a trust for the benefit of the person or the partnership,

ii. from a trust to a beneficiary under the trust, or

iii. from one trust maintained for the benefit of one or more beneficiaries under the trust to another trust maintained for the benefit of the same beneficiaries;

(*b*) any transfer of the property as a consequence of which there is no change in the beneficial ownership of the property, where

i. the transferor and the transferee are trusts,

ii. the transfer is not by a trust resident in Canada to a trust not resident in Canada,

iii. the transferee does not receive the property as consideration for the transferee's right as a beneficiary under the transferor trust,

iv. the transferee holds no property immediately before the transfer, other than property the cost of which is not included, for the purposes of this Part, in computing a balance of undeducted outlays, expenses or other amounts in respect of the transferee,

v. the transferee does not file an election with the Minister on or before the transferee's filing-due date for its taxation year in which the transfer is made, or on such later date as is acceptable to the Minister, that this subparagraph *b* not apply,

vi. if the transferor is an amateur athlete trust, a cemetery care trust, an employee trust, a trust referred to in section 851.25, a segregated fund trust referred to in section 851.2, a trust referred to in paragraph *c*.4 of section 998 or a trust governed by an eligible funeral arrangement, a profit sharing plan, a registered education savings plan or a registered supplementary unemployment benefit plan, the transferee is the same type of trust, and

vii. the transfer results, or is part of a series of transactions or events that results, in the transferor ceasing to exist and, immediately before the time of the transfer or the beginning of that series, as the case may be, the transferee never held any property or held only property having a nominal value;

(*c*) any transfer of the property where

i. the transferor is a trust governed by a registered retirement savings plan or a trust governed by a registered retirement income fund,

ii. the transferee is a trust governed by a registered retirement savings plan or a trust governed by a registered retirement income fund,

iii. the annuitant under the plan or fund that governs the transferor is also the annuitant under the plan or fund that governs the transferee,

iv. the transferee holds no property immediately before the transfer, other than property the cost of which is not included, for the purposes of this Part, in computing a balance of undeducted outlays, expenses or other amounts in respect of the transferee,

v. the transferee does not file an election with the Minister on or before the transferee's filing-due date for its taxation year in which the transfer is made, or on such later date as is acceptable to the Minister, that this subparagraph *c* not apply, and

vi. the transfer results, or is part of a series of transactions or events that results, in the transferor ceasing to exist and, immediately before the time of the transfer or the beginning of that series, as the case may be, the transferee never held any property or held only property having a nominal value;

(*d*) where the property is part of a capital interest of a taxpayer in a trust, other than a personal trust or a trust prescribed for the purposes of section 688, that is described by reference to units issued by the trust, a payment after 31 December 1999 from the trust in respect of the capital interest, where the number of units in the trust that are owned by the taxpayer is not reduced because of the payment,

(*e*) where the property is a taxpayer's capital interest in a trust, a payment to the taxpayer after 31 December 1999 in respect of the capital interest to the extent that the payment

i. is out of the income of the trust, determined without reference to paragraph *a* of section 657 and section 657.1, for a taxation year or out of the capital gains of the trust for the year, if the payment was made in the year or the right to the payment was acquired by the taxpayer in the year, or

ii. is in respect of an amount designated in respect of the taxpayer by the trust under section 667;

(*f*) any transfer of the property for the purpose only of securing a debt or a loan, or any transfer by a creditor for the purpose only of returning property that has been used as security for a debt or a loan;

(*g*) any transfer of the property to a trust as a consequence of which there is no change in the beneficial ownership of the property, where the main purpose of the transfer is

i. to effect payment under a debt or loan,

ii. to provide assurance that an absolute or contingent obligation of the transferor will be satisfied, or

iii. to facilitate either the provision of compensation or the enforcement of a penalty, in the event that an absolute or contingent obligation of the transferor is not satisfied;

(*h*) any issue of a bond, debenture, bill or obligation secured by hypothec or mortgage;

(*i*) any issue by a corporation of a share of its capital stock, or any other transaction that, but for this subparagraph, would be a disposition by a corporation of a share of its capital stock; and

(*j*) any transfer of a property governed by civil law which does not entail a change in the right of the person who has the full ownership thereof, although

such property be subject to a servitude, or in the right of the usufructuary, the emphyteutic lessee, an institute in a substitution or a beneficiary in a trust."

(2) Subsection 1 applies in respect of transactions or events that occur after 23 December 1998. However, where the second paragraph of section 248 of the said Act applies in respect of a transfer of property that occurred before 1 January 2000, by a trust governed by a registered retirement savings plan or by a registered retirement income fund to a trust governed by a registered retirement savings plan, or in respect of a transfer by a trust governed by a registered retirement income fund to a trust governed by a registered retirement savings plan, it shall be read, for the purposes of the said Act, other than sections 692.5 to 692.9, without reference to subparagraphs *b* and *c* of that second paragraph, unless the transferee trust files an election with the Minister on or before the transferee trust's filing-due date for its taxation year in which the transfer is made, or on such later date as is acceptable to the Minister, to have that subparagraph *b* or *c*, as the case may be, apply.

78. (1) Section 250 of the said Act is replaced by the following section:

"**250.** For the purposes of this Title, an intangible capital property of a taxpayer means any property a part of the proceeds of disposition of which would, if the taxpayer disposed of the property, be an amount determined under subparagraph *b* of the second paragraph of section 107 in respect of a business of the taxpayer."

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

79. (1) Section 251.1 of the said Act is amended by replacing subparagraphs i and ii of subparagraph *c* of the second paragraph by the following subparagraphs:

"i. if the entity is a trust described in any of paragraphs *a* and *c* to *e* of the definition of "flow-through entity" in the first paragraph, the aggregate of

(1) 4/3 of the aggregate of all amounts each of which is the amount by which the individual's taxable capital gain, determined without reference to this chapter, for a preceding taxation year that ended before 28 February 2000 and that resulted from a designation made under section 668 by the trust, was reduced under section 251.3,

(2) 3/2 of the aggregate of all amounts each of which is the amount by which the individual's taxable capital gain, determined without reference to this chapter, for a preceding taxation year that began after 27 February 2000 and ended before 18 October 2000 and that resulted from a designation made under section 668 by the trust, was reduced under section 251.3,

(3) the amount claimed by the individual under paragraph *a* of section 668.5 or paragraph *b* of section 668.8 for a preceding taxation year, and

(4) twice the aggregate of all amounts each of which is the amount by which the individual's taxable capital gain, determined without reference to this chapter, for a preceding taxation year that began after 17 October 2000 and that resulted from a designation made under section 668 by the trust, was reduced under section 251.3,

"ii. if the entity is a partnership, the aggregate of

(1) 4/3 of the aggregate of all amounts each of which is the amount by which the individual's share of the partnership's taxable capital gains, determined without reference to this chapter, for its fiscal period that ended before 28 February 2000 and in a preceding taxation year, was reduced under section 251.4,

(2) 4/3 of the aggregate of all amounts each of which is the amount by which the individual's share of the partnership's income from a business, determined without reference to this chapter, for its fiscal period that ended before 28 February 2000 and in a preceding taxation year, was reduced under section 251.5,

(3) the aggregate of all amounts each of which is the product obtained by multiplying the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the partnership for its fiscal period that ended in a preceding taxation year and includes 28 February 2000 or 17 October 2000, or began after 28 February 2000 and ended before 17 October 2000, by the aggregate of all amounts each of which is the amount by which the individual's share of the partnership's taxable capital gains, determined without reference to this chapter, for its fiscal period, was reduced under section 251.4,

(4) the aggregate of all amounts each of which is the product obtained by multiplying the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the partnership for its fiscal period that ended in a preceding taxation year and includes 28 February 2000 or 17 October 2000, or began after 28 February 2000 and ended before 17 October 2000, by the aggregate of all amounts each of which is the amount by which the individual's share of the partnership's income from a business, determined without reference to this chapter, for its fiscal period, was reduced under section 251.5,

(5) twice the aggregate of all amounts each of which is the amount by which the individual's share of the partnership's taxable capital gains, determined without reference to this chapter, for its fiscal period that began after 17 October 2000 and ended in a preceding taxation year, was reduced under section 251.4, and

(6) twice the aggregate of all amounts each of which is the amount by which the individual's share of the partnership's income from a business, determined without reference to this chapter, for its fiscal period that began after 17 October 2000 and ended in a preceding taxation year, was reduced under section 251.5, and".

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

80. (1) Section 251.2 of the said Act is amended by replacing "4/3 of" in subparagraphs i and ii of subparagraph *b* of the second paragraph by "and subject to section 251.5.1, twice".

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

81. (1) Section 251.3 of the said Act is amended by replacing "3/4 of" by ", subject to section 251.5.1, 1/2 of".

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

82. (1) Section 251.4 of the said Act is amended by replacing "3/4 of" by ", subject to section 251.5.1, 1/2 of".

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

83. (1) Section 251.5 of the said Act is amended

(1) by replacing "subparagraph ii of paragraph *a* of section 105" by "paragraph *b* of section 105" in the following provisions:

— the portion of the first paragraph before subparagraph *a*;

— subparagraph *a* of the second paragraph;

(2) by replacing "the amount by which 3/4 of" in the portion of subparagraph *a* of the first paragraph before subparagraph i by "subject to section 251.5.1, the amount by which 1/2 of".

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

84. (1) The said Act is amended by inserting the following section after section 251.5:

"**251.5.1.** Where the taxation year of the flow-through entity ending in the individual's taxation year includes 28 February 2000 or 17 October 2000, or begins after 28 February 2000 and ends before 17 October 2000, the following rules apply:

(*a*) the word "twice" in subparagraph i or ii, as the case may be, of subparagraph *b* of the second paragraph of section 251.2, shall be read, with the necessary modifications, as a reference to the fraction that is the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the flow-through entity for its taxation year;

(*b*) the fraction "1/2" in section 251.3 or 251.4, as the case may be, shall be read as a reference to the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the flow-through entity for its taxation year;

(*c*) the fraction "1/2" in the portion of subparagraph *a* of the first paragraph of section 251.5 before subparagraph i shall be read as a reference to the fraction in section 105.2 that applies to the flow-through entity for its taxation year; and

(*d*) subparagraph i of subparagraph *a* of the first paragraph of section 251.5 shall be read with ", multiplied by the fraction obtained when the fraction in section 105.2 that applies to the partnership for the fiscal period is divided by the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the partnership for the fiscal period" inserted after "partnership"."

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

85. (1) The said Act is amended by inserting the following sections after section 254:

"**254.1.** For the purposes of section 254 and Divisions II to IV of Chapter III of Title IV of Book III, other than section 259, where a taxpayer encumbers land with a real servitude in circumstances where section 710.0.2 or 752.0.10.3.2 applies, the following rules apply:

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

(*b*) the portion of the adjusted cost base to the taxpayer of the land immediately before the disposition that can reasonably be considered to be attributable to the servitude is deemed to be equal to the amount determined by the formula

A × B/C; and

(*c*) the cost to the taxpayer of the land shall be reduced at the time of the disposition by the amount determined under subparagraph *b*.

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

(*a*) A is the adjusted cost base to the taxpayer of the land immediately before the disposition;

(*b*) B is the amount determined under section 710.0.2 or 752.0.10.3.2 in respect of the disposition; and

(*c*) C is the fair market value of the land immediately before the disposition.

"**254.2.** Notwithstanding section 254, where part of a capital interest of a taxpayer in a trust would, but for subparagraphs *d* and *e* of the second paragraph of section 248, be disposed of solely because of the satisfaction of a right to enforce payment of an amount by the trust, no part of the adjusted cost base to the taxpayer of the taxpayer's capital interest in the trust shall be allocated to that part of the capital interest."

(2) Subsection 1, where it enacts section 254.1 of the said Act, applies in respect of gifts made after 12 May 1994.

(3) Subsection 1, where it enacts section 254.2 of the said Act, applies in respect of satisfactions of rights that occur after 31 December 1999.

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

(1) by replacing "4/3 of" in paragraph *c*.6 by ", subject to section 255.1, twice";

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

"(*f*) where the property is a share of the capital stock of a corporation, the amount of the benefit that, in respect of the acquisition of the property by the taxpayer, is deemed by Division VI of Chapter II of Title II to have been received in any taxation year beginning before the particular time and ending after 31 December 1971 by the taxpayer or by a person that did not deal at arm's length with the taxpayer or, if the share was acquired after 27 February 2000, the amount of the benefit that would have been so deemed to have been received if that Division VI were read without reference to sections 49.2 and 58.0.1;";

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

"i. an amount in respect of each fiscal period of the partnership ending after 31 December 1971 and before the particular time, equal to the taxpayer's share, other than a share under an agreement referred to in section 608, of the income of the partnership from any source for that fiscal period, computed as if this Part were construed without reference to

(1) the fraction "1/2" in section 105, as it applied to each fiscal period of the partnership ending before 1 April 1977, and without reference to that or another fraction in sections 107, 231, 231.1, 231.2 and 265,

(2) the reference to the fraction and the letter C in the formula provided for in the first paragraph of section 105.2, and

(3) paragraphs *l* and *z*.4 of section 87, sections 89 to 91, 144, 144.1 and 145, paragraph *j* of section 157, as it read before being struck out, paragraph *b* of each of sections 200 and 201, Division XV of Chapter IV, section 425,

paragraphs *g* and *h* of section 489, as they read before being struck out, the second paragraph of section 497, and the provisions of the Act respecting the application of the Taxation Act (1972, chapter 24), as they read before their repeal, in respect of income from the operation of new mines;";

(4) by replacing paragraph *j*.3 by the following paragraph:

"(*j*.3) where the property is a unit of a mutual fund trust, the amount of the benefit that, in respect of the acquisition of the property by the taxpayer, is deemed by Division VI of Chapter II of Title II to have been received in any taxation year beginning before the particular time by the taxpayer or by a person that did not deal at arm's length with the taxpayer or, if the unit was acquired after 27 February 2000, the amount of the benefit that would have been so deemed to have been received if that Division VI were read without reference to section 58.0.1;".

(2) Paragraph 1 of subsection 1 applies to taxation years that end after 27 February 2000.

(3) Paragraphs 2 and 4 of subsection 1 have effect from 1 January 2000.

(4) Paragraph 3 of subsection 1 applies to fiscal periods that end after 27 February 2000. However, where subparagraph 1 of subparagraph i of paragraph *i* of section 255 of the said Act applies in respect of gifts made before 15 March 2000, it shall be read without reference to ", 231.1".

87. (1) The said Act is amended by inserting the following section after section 255:

"**255.1.** For the purposes of paragraph *c*.6 of section 255 in respect of a taxpayer's interest in a flow-through entity, where a taxation year of the entity that includes 28 February 2000 or 17 October 2000, or that begins after 28 February 2000 and ends before 17 October 2000, ends in the taxpayer's taxation year, the word "twice" in that paragraph *c*.6 shall be read, with the necessary modifications, as a reference to the fraction that is the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies in respect of the flow-through entity for its taxation year."

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

88. (1) Section 257 of the said Act is amended

(1) by adding the following subparagraph after subparagraph iv of paragraph *g*:

"v. any amount required by section 280.6 to be deducted in computing the adjusted cost base to the taxpayer of the share;";

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

"i. subject to section 257.2.1, an amount in respect of each fiscal period of the partnership ending after 31 December 1971 and before the particular time, equal to the taxpayer's share, other than a share under an agreement referred to in section 608, of any loss of the partnership from any source for that fiscal period, computed as if this Part were construed without reference to

(1) the fraction "1/2" in section 105, as it applied to each fiscal period of the partnership ending before 1 April 1977, and without reference to that or another fraction in sections 107 and 231,

(2) the reference to the fraction and the letter C in the formula provided for in the first paragraph of section 105.2, and

(3) paragraph *z*.4 of section 87, sections 89 to 91, 144, 144.1, 145, 205 to 207, 235, 236.2 to 241, 264, 271, 273, 288, 293, 425, 638.1, 741.2 and 744.1, as it applied to dispositions of property that occurred before 27 April 1995, paragraph *j* of section 157, as it read before being struck out, Division XV of Chapter IV and paragraphs *g* and *h* of section 489, as they read before being struck out;";

(3) by replacing the portion of paragraph *n* before subparagraph i by the following:

"(*n*) where the property is a capital interest of the taxpayer in a trust, other than an interest in a personal trust that has never been acquired for consideration or an interest in a trust referred to in subparagraphs *a* to *d* of the third paragraph of section 647,";

(4) by replacing "is equal to 1/3 of" in subparagraph 3 of subparagraph i.1 of paragraph *n* by "is, subject to section 257.4, equal to";

(5) by replacing paragraph *o* by the following paragraph:

"(*o*) where the property is a capital interest in a trust not resident in Canada which the taxpayer purchased after 31 December 1971 and before the particular time from a person not resident in Canada, at a time, in this paragraph referred to as the "acquisition time", when the property was not taxable Canadian property and the fair market value of the trust property referred to in section 258 was not less than 50% of the fair market value of all the trust property, the proportion of the amount by which such value of the property referred to in that section at the acquisition time exceeds the cost amounts to the trust at the acquisition time of the property that

i. except where subparagraph ii applies, the fair market value at the acquisition time of the interest is of the fair market value at the acquisition time of all capital interests in the trust, or

ii. in the case of a unit of a unit trust, the fair market value at the acquisition time of the unit is of the fair market value at the acquisition time of all the issued units of the trust;".

(2) Paragraph 1 of subsection 1 applies in respect of dispositions that are made after 27 February 2000.

(3) Paragraph 2 of subsection 1 applies to fiscal periods that end after 27 February 2000.

(4) Paragraph 3 of subsection 1 applies in respect of amounts that become payable after 31 December 1999.

(5) Paragraph 4 of subsection 1 applies to taxation years that end after 27 February 2000.

(6) Paragraph 5 of subsection 1 applies in respect of the computing of the adjusted cost base of property after 26 April 1995.

89. (1) The said Act is amended by inserting the following section after section 257.2:

"**257.2.1.** For the purposes of subparagraph i of paragraph *l* of section 257 in respect of a taxpayer, a partnership's loss for a fiscal period, computed in accordance with that subparagraph, does not include all or any portion of that loss that may reasonably be considered to be included in the taxpayer's limited partnership loss in respect of the partnership for the taxpayer's taxation year in which that fiscal period ends."

(2) Subsection 1 applies to fiscal periods that end after 27 February 2000.

90. (1) The said Act is amended by inserting the following section after section 257.3:

"**257.4.** For the purposes of subparagraph 3 of subparagraph i.1 of paragraph *n* of section 257 in respect of a taxpayer's interest in a trust, where a taxation year of the trust that includes 28 February 2000 or 17 October 2000, or that begins after 28 February 2000 and ends before 17 October 2000, ends in the taxpayer's taxation year, that subparagraph 3 shall be read with "the product obtained by multiplying the fraction obtained when 1 is subtracted from the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the trust for its taxation year, by" inserted after "equal to"."

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

91. (1) The said Act is amended by inserting the following section after section 259:

"**259.0.1.** For the purposes of section 259, a security within the meaning of section 47.18 acquired by a taxpayer after 27 February 2000 is deemed not to be identical to any other security acquired by the taxpayer if

(*a*) the security is acquired in circumstances to which any of sections 49.2, 49.5, 58.0.1 and 886 applies; or

(*b*) the security is a security to which section 49.2.3 applies."

(2) Subsection 1 has effect from 1 January 2000.

92. (1) Section 259.1 of the said Act is amended by replacing "or 692" in the portion before paragraph *a* by ", 692 or 692.8".

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

93. (1) Section 261.5 of the said Act is amended by replacing paragraph *a* by the following paragraph:

"(*a*) by operation of any law governing the partnership arrangement, the liability of the member as a member of the partnership is limited, except by operation of a provision of a statute of Canada or a province that limits the member's liability only for debts and other obligations of the partnership, or any member of the partnership, arising from the misconduct or faults or omissions or negligent acts that another member of the partnership or an employee, agent or mandatary, or representative of that member or of the partnership commits in the course of the partnership business while the partnership is a limited liability partnership referred to in that provision;".

(2) Subsection 1 has effect from 1 January 1998. However, where paragraph *a* of section 261.5 of the said Act applies before 21 June 2001, it shall be read without reference to the words "of that member or".

94. (1) Section 264.4 of the said Act is amended

(1) by replacing subparagraphs i to iii of subparagraph *b* of the first paragraph by the following subparagraphs:

"i. the aggregate of all amounts each of which is twice the amount deducted by the individual under Titles VI.5 and VI.5.1 of Book IV in computing the individual's taxable income for a preceding taxation year that ended before 1 January 1988 or began after 17 October 2000,

"ii. the aggregate of all amounts each of which is

(1) 3/2 of the amount deducted by the individual under Titles VI.5 and VI.5.1 of Book IV in computing the individual's taxable income for a preceding taxation year that ended after 31 December 1987 but before 1 January 1990 or that began after 28 February 2000 and ended before 17 October 2000, or

(2) the product obtained by multiplying the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the individual for a preceding taxation year that includes 28 February 2000 or 17 October 2000 by the amount deducted under Titles VI.5 and VI.5.1 of Book IV in computing the individual's taxable income for that preceding taxation year, and

"iii. the aggregate of all amounts each of which is 4/3 of the amount deducted by the individual under Titles VI.5 and VI.5.1 of Book IV in computing the individual's taxable income for a preceding taxation year that ended after 31 December 1989 but before 28 February 2000.";

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

"However, where a particular amount was included in computing the individual's income for a taxation year that ended after 31 December 1987 but before 1 January 1990 under subparagraph ii of paragraph *a* of section 105, as it read in respect of that taxation year, the reference in subparagraph 1 of subparagraph ii of subparagraph *b* of the first paragraph to "3/2" shall be read as a reference to "4/3" in respect of that portion of any amount deducted under Title VI.5 of Book IV in respect of the particular amount."

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

95. (1) Section 264.5 of the said Act is amended

(1) by replacing subparagraphs i to iii of subparagraph *b* of the first paragraph by the following subparagraphs:

"i. the aggregate of all amounts each of which is twice the amount designated by it under section 668.1 in respect of a beneficiary in its fiscal return for a preceding taxation year that ended before 1 January 1988 or began after 17 October 2000,

"ii. the aggregate of all amounts each of which is

(1) 3/2 of the amount designated by it under section 668.1 in respect of a beneficiary in its fiscal return for a preceding taxation year that ended after 31 December 1987 but before 1 January 1990 or that began after 28 February 2000 and ended before 17 October 2000, or

(2) the product obtained by multiplying the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the trust for a preceding taxation year that includes 28 February 2000 or 17 October 2000 by the amount designated by the trust under section 668.1 in respect of a beneficiary in its fiscal return for that preceding taxation year, and

"iii. the aggregate of all amounts each of which is 4/3 of the amount designated by it under section 668.1 in respect of a beneficiary in its fiscal return for a preceding taxation year that ended after 31 December 1989 but before 28 February 2000.";

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

"However, where a particular amount was included in computing the trust's income for a taxation year that ended after 31 December 1987 but before 1 January 1990 under subparagraph ii of paragraph *a* of section 105, as it read in respect of that taxation year, the reference in subparagraph 1 of subparagraph ii of subparagraph *b* of the first paragraph to "3/2" shall be read as a reference to "4/3" in respect of that portion of any amount deducted under Title VI.5 of Book IV in respect of the particular amount."

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

96. (1) Section 264.6 of the said Act is replaced by the following section:

"**264.6.** Where an amount is received in a taxation year on account of a debt in respect of which a deduction for bad debts had been made under section 142.1 in computing a taxpayer's income for a preceding taxation year, the amount by which 1/2 of the amount so received exceeds the amount determined under paragraph *i*.1 of section 87 in respect of the amount so received is deemed to be a taxable capital gain of the taxpayer from a disposition of capital property in the year."

(2) Subsection 1 applies to taxation years that end after 27 February 2000. However, where such a taxation year ends before 18 October 2000, section 264.6 of the said Act shall be read as if the reference to "1/2" were a reference to "2/3".

97. (1) Section 265 of the said Act is amended

(1) by replacing "3/4 of his" by ", subject to the second paragraph, 1/2 of the taxpayer's";

(2) by adding the following paragraph:

"However, where the taxation year of the taxpayer includes 28 February 2000 or 17 October 2000, or begins after 28 February 2000 and ends before 17 October 2000, the fraction "1/2" in the first paragraph shall be read as a reference to the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the taxpayer for the year."

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

98. Section 270 of the said Act is replaced by the following section:

"**270.** For the purposes of this Title, a taxpayer shall include, in computing the proceeds of disposition of any property, all amounts received or receivable by the taxpayer as consideration for warranties given by the taxpayer or covenants or conditional or contingent obligations contracted by the taxpayer in respect of the disposition of the property.

In computing the taxpayer's income for the year in which the property was disposed of and for each subsequent taxation year, any outlay or expense made or incurred by the taxpayer in any such year pursuant to or by reason of any obligation referred to in the first paragraph is deemed to be a loss of the taxpayer for that year from the disposition of a capital property and for the purposes of Title VI.5 of Book IV, that capital property is deemed to have been disposed of by the taxpayer in that year."

99. (1) The said Act is amended by inserting the following after section 280.4

"DIVISION VII.1

"REPLACEMENT SHARES

"**280.5.** In this division,

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

J × (K/L);

"common share" means a share prescribed by regulation for the purposes of paragraph *d* of subsection 1 of section 110 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

"eligible business corporation" at any time means, subject to section 280.14, a corporation that is, at that time, a taxable Canadian corporation all or substantially all of the fair market value of the assets of which at that time is attributable to assets of the corporation that are

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

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

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

"eligible pooling arrangement" in respect of an individual means an agreement in writing made between the individual and another person or partnership, in this definition and section 280.7 referred to as the "investment manager", where the agreement provides for

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

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

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

"eligible small business corporation" at any time means, subject to section 280.14, a corporation that, at that time, is a Canadian-controlled private corporation all or substantially all of the fair market value of the assets of which at that time is attributable to assets of the corporation that are

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

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

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

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

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

(*b*) immediately before and after the share was issued, the aggregate of the assets of the corporation and corporations related to it did not exceed $50,000,000;

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

(A/B) × C;

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

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

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

"qualifying disposition" of an individual, other than a trust, means, subject to section 280.13, a disposition of shares of the capital stock of a corporation where each such share disposed of was

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

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

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

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

$D \times [1 - (E/F)]$;

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

$G \times (H/I)$;

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

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

(*b*) designated by the individual to be a replacement share in respect of the qualifying disposition, in accordance with paragraph *b* of the definition of "replacement share" in subsection 1 of section 44.1 of the Income Tax Act, in the fiscal return that the individual filed for the year under Part I of that Act.

In the formula provided for in the definition of "permitted deferral" in the first paragraph,

(*a*) A is the lesser of

i. the qualifying portion of the individual's proceeds of disposition from the qualifying disposition, and

ii. the aggregate of all amounts each of which is the qualifying cost to the individual of a replacement share in respect of the qualifying disposition;

(*b*) B is the qualifying portion of the individual's proceeds of disposition from the qualifying disposition; and

(*c*) C is the qualifying portion of the individual's capital gain from the qualifying disposition.

In the formula provided for in the definition of "qualifying portion of a capital gain" in the first paragraph,

(*a*) D is the individual's capital gain from the particular qualifying disposition, determined without reference to this division;

(*b*) E is the amount by which $2,000,000 is exceeded by the aggregate of

i. the aggregate of all amounts each of which is the adjusted cost base to the individual of a share of a particular corporation that was the subject of the particular qualifying disposition, determined immediately before the share was disposed of and without reference to this division, and

ii. the aggregate of all amounts each of which is the adjusted cost base to the individual of a share of the particular corporation referred to in subparagraph i or a corporation related to it at the time of the particular qualifying disposition that was the subject of another qualifying disposition that occurred at or before the time of the particular qualifying disposition and in respect of which a permitted deferral was deducted under this division by the individual, determined immediately before the share was disposed of and without reference to this division; and

(*c*) F is the aggregate of all amounts each of which is the adjusted cost base to the individual of a share of the particular corporation referred to in subparagraph i of paragraph *b* that was the subject of the particular qualifying disposition, determined immediately before the share was disposed of and without reference to this division.

In the formula provided for in the definition of "qualifying portion of the proceeds of disposition" in the first paragraph,

(*a*) G is the individual's proceeds of disposition from the qualifying disposition;

(*b*) H is the individual's qualifying portion of the capital gain from the qualifying disposition; and

(*c*) I is the individual's capital gain from the qualifying disposition, determined without reference to this division.

In the formula provided for in the definition of "adjusted cost base reduction" in the first paragraph,

(*a*) J is the permitted deferral of the individual in respect of the qualifying disposition;

(*b*) K is the qualifying cost to the individual of the replacement share; and

(*c*) L is the qualifying cost to the individual of all the replacement shares of the individual in respect of the qualifying disposition.

For the purposes of paragraph *b* of the definition of "eligible small business corporation share" in the first paragraph, the assets of a corporation at any time means the assets that would be shown in its financial statements as of that time if those financial statements were prepared in accordance with generally accepted accounting principles used in Canada at that time, and if the value of an asset of a corporation that is a share issued by or debt owing by a related corporation were nil.

"**280.6.** Subject to the second paragraph, where an individual makes a qualifying disposition in a taxation year, the following rules apply:

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

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

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

For the purposes of the first paragraph, the individual shall enclose with the fiscal return the individual is required to file for the year under section 1000, the prescribed form along with a copy of every document sent to the Minister of National Revenue attesting the share was designated by the individual in the fiscal return the individual files for the year under Part I of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), pursuant to paragraph *b* of the definition of "replacement share" in subsection 1 of section 44.1 of that Act.

"**280.7.** Except for the purposes of the definition of "eligible pooling arrangement" in the first paragraph of section 280.5, any transaction entered into by an investment manager under an eligible pooling arrangement on behalf of an individual is deemed to be a transaction of the individual and not a transaction of the investment manager.

"**280.8.** For the purposes of this division, a share of the capital stock of a corporation, acquired by an individual as a consequence of the death of a person who is the individual's spouse, father or mother is deemed to be a share that was acquired by the individual at the time it was acquired by that person and owned by the individual throughout the period that it was owned by that person, if

(*a*) where the person was the spouse of the individual, the share was an eligible small business corporation share of the person and section 440 applied in respect of the individual in relation to the share; or

(*b*) where the person was the individual's father or mother, the share was an eligible small business corporation share of the father or mother and section 444 applied in respect of the individual in relation to the share.

"**280.9.** For the purposes of this division, a share of the capital stock of a corporation, acquired by an individual from a person who was the individual's former spouse as a consequence of the settlement of rights arising out of their marriage, is deemed to be a share that was acquired by the individual at the time it was acquired by that person and owned by the individual throughout the period that it was owned by that person if the share was an eligible small business corporation share and section 454 applied to the individual in respect of the share.

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

(*a*) paragraph *c* of section 528, section 540 or sections 551 to 553.1 and 554 applied in respect of the individual in relation to the new shares; and

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

"**280.11.** For the purposes of this division, where an individual receives common shares of the capital stock of a corporation, in this section referred to as the "new shares", as the sole consideration for the disposition of common

shares of another corporation, in this section referred to as the "exchanged shares", the new shares are deemed to be eligible small business corporation shares of the individual and shares of the capital stock of an eligible business corporation that were owned by the individual throughout the period that the exchanged shares were owned by the individual, if

(*a*) paragraph *c* of section 528, section 540 or sections 551 to 553.1 and 554 applied in respect of the individual in relation to the new shares;

(*b*) the aggregate of all amounts each of which is the individual's proceeds of disposition of an exchanged share was equal to the aggregate of all amounts each of which is the individual's adjusted cost base of an exchanged share immediately before the disposition; and

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

"**280.12.** For the purposes of each of the definitions in the first paragraph of section 280.5, a property held at a particular time by a corporation that would, if this Act were read without reference to this section, be considered to carry on an eligible business at that time, is deemed to be used or held by the corporation in the course of carrying on that eligible business if the property, or other property for which the property is substituted property, was acquired by the corporation, at any time in the 36-month period that ends at the particular time, because the corporation

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

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

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

"**280.13.** A disposition of a common share of an eligible business corporation by an individual that, but for this section, would be a qualifying disposition of the individual is deemed not to be a qualifying disposition of the individual unless the eligible business of the corporation referred to in the definition of "eligible business corporation" in the first paragraph of section 280.5 was carried on primarily in Canada

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

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

"**280.14.** For the purposes of this division, an eligible small business corporation and an eligible business corporation do not include a corporation that is

(*a*) a professional corporation;

(*b*) a specified financial institution;

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

(*d*) a corporation more than 50% of the fair market value of the property of which, net of debts incurred to acquire the property, is attributable to immovable property.

"**280.15.** In determining whether a share owned by an individual is an eligible small business corporation share of the individual, this Part shall be read without reference to sections 247.2 to 247.6.

"**280.16.** The permitted deferral of an individual in respect of a qualifying disposition of shares issued by a corporation, in this section referred to as "new shares", is deemed to be nil where

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

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

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

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

(*c*) it is reasonable to conclude that one of the main reasons for the series of transactions or events or a transaction in the series was to permit the individual, a person related to the individual, or the individual and such a person to become eligible to deduct under section 280.6 permitted deferrals in respect of qualifying dispositions of new shares, or shares substituted for the new shares, the aggregate of which would exceed the aggregate of all amounts that those persons would have been eligible to deduct under section 280.6 in respect of permitted deferrals in respect of qualifying dispositions of old shares."

(2) Subsection 1 applies in respect of dispositions that occur after 27 February 2000. However, where subsection 1 applies in respect of dispositions that occur after 27 February 2000 and before 18 October 2000,

(1) the definition of "eligible small business corporation share" in the first paragraph of section 280.5 of the said Act shall be read as follows:

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

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

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

(*c*) immediately after the share was issued, the aggregate of the assets of the corporation and corporations related to it did not exceed $10,000,000;";

(2) the definition of "qualifying disposition" in the first paragraph of section 280.5 of the said Act shall be read without reference to ", subject to section 280.13," in the portion before paragraph *a*;

(3) the definition of "qualifying cost" in the first paragraph of section 280.5 of the said Act shall be read as if the reference to "$2,000,000" in paragraph *b* were a reference to "$500,000";

(4) the definition of "eligible small business corporation" in the first paragraph of section 280.5 of the said Act shall be read without reference to ", subject to section 280.14," in the portion before paragraph *a*;

(5) the definition of "eligible business corporation" in the first paragraph of section 280.5 of the said Act shall be read without reference to ", subject to section 280.14," in the portion before paragraph *a* and as if the reference to "carried on" in paragraph *a* were a reference to "carried on primarily in Canada";

(6) the portion of subparagraph *b* of the third paragraph of section 280.5 of the said Act before subparagraph i shall be read as if the reference to "$2,000,000" were a reference to "$500,000"; and

(7) it shall be read without reference to sections 280.13 and 280.14.

100. (1) The said Act is amended by inserting the following section after section 287:

"**287.1.** For the purposes of this division, excluded property of a taxpayer means property acquired by the taxpayer, or by a person with whom the taxpayer does not deal at arm's length, in circumstances in which it is reasonable to conclude that the acquisition of the property relates to an arrangement, plan or scheme that is promoted by another person or partnership and under which it is reasonable to conclude that the property will be the subject of a gift to which section 710 or the definition of "total charitable gifts", "total gifts of qualified property" or "total cultural gifts" in the first paragraph of section 752.0.10.1, applies."

(2) Subsection 1 applies in respect of property acquired after 27 February 2000.

101. (1) Sections 289 and 290 of the said Act are replaced by the following sections:

"**289.** For the purposes of this Title, where a taxpayer disposes of a personal-use property, other than an excluded property disposed of in circumstances to which section 710 or the definition of "total charitable gifts", "total gifts of qualified property" or "total cultural gifts" in the first paragraph of section 752.0.10.1 applies, owned by the taxpayer, the following rules apply:

(*a*) the adjusted cost base to the taxpayer of the property immediately before the disposition is deemed to be equal to the greater of $1,000 and the amount otherwise determined to be its adjusted cost base to the taxpayer immediately before the disposition; and

(*b*) the taxpayer's proceeds of disposition of the property is deemed to be equal to the greater of $1,000 and the taxpayer's proceeds of disposition of the property otherwise determined.

"**290.** For the purposes of this Title, where a taxpayer disposes of part of a personal-use property, other than a part of an excluded property disposed of in circumstances to which section 710 or the definition of "total charitable gifts", "total gifts of qualified property" or "total cultural gifts" in the first paragraph of section 752.0.10.1 applies, owned by the taxpayer and has retained another part of the property, the following rules apply:

(*a*) the adjusted cost base to the taxpayer, immediately before the disposition, of the part so disposed of is deemed to be equal to the greater of

i. the adjusted cost base, otherwise determined, to the taxpayer, immediately before the disposition, of the part so disposed of, and

ii. that proportion of $1,000 that the amount determined under subparagraph i is of the adjusted cost base, otherwise determined, to the taxpayer, immediately before the disposition, of the whole property; and

(*b*) the proceeds of disposition of the part so disposed of are deemed to be equal to the greater of the proceeds of disposition of that part, otherwise determined, and the amount determined under subparagraph ii of paragraph *a*."

(2) Subsection 1 applies in respect of excluded property acquired after 27 February 2000.

102. (1) Section 296 of the said Act is amended by replacing "paragraph *f*" and "sections 47.18 to 58" in paragraph *a* by "paragraph *f* or *j*.3" and "Division VI of Chapter II of Title II", respectively.

(2) Subsection 1 has effect from 1 January 2000.

103. (1) Section 298 of the said Act is amended

(1) by replacing "aux fins desdits" in the French text of paragraph *a* by "pour l'application de ces";

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

"(*b*) for the purposes of subparagraph iv of subparagraph *b* of the first paragraph of section 248 and sections 295 to 297, the option and each renewal or extension are deemed to be the same option; and".

(2) Paragraph 2 of subsection 1 applies in respect of options granted after 23 December 1998.

104. (1) Section 302 of the said Act is replaced by the following section:

"**302.** For the purposes of this Title, where a taxpayer acquires property after 31 December 1971, other than property referred to in the second paragraph, and an amount in respect of its value is included, otherwise than under Division VI of Chapter II of Title II, in computing the taxpayer's taxable income or taxable income earned in Canada, as the case may be, for a taxation year during which the taxpayer was not resident in Canada, or in computing the taxpayer's income for a taxation year throughout which the taxpayer was resident in Canada, the amount so included shall be added in computing the cost to the taxpayer of the property, except to the extent that the amount was otherwise added to the cost or included in computing the adjusted cost base to the taxpayer of the property.

The property to which the first paragraph refers is

(*a*) an annuity contract;

(*b*) a right as a beneficiary under a trust to enforce payment of an amount by the trust to the taxpayer;

(*c*) property acquired in circumstances to which sections 304 and 305 apply; or

(*d*) property acquired from a trust as consideration for all or part of the taxpayer's capital interest in the trust."

(2) Subsection 1 has effect from 1 January 2000. However, where the second paragraph of section 302 of the said Act applies in respect of property acquired before 1 January 2000 and disposed of before 1 March 2000, it shall be read as follows:

"The property to which the first paragraph refers is an annuity contract or a property referred to in sections 304 to 306."

105. (1) Section 303 of the said Act is repealed.

(2) Subsection 1 has effect from 1 January 2000.

106. (1) Section 306 of the said Act is repealed.

(2) Subsection 1 has effect from 1 January 2000, except in respect of rights acquired before 1 January 2000 and disposed of before 1 March 2000.

107. (1) Section 308.6 of the said Act is amended

(1) by replacing "l'ensemble de" in the French text of the portion of subparagraph *b* of the first paragraph before subparagraph i by "l'ensemble des montants suivants";

(2) by replacing subparagraphs ii and iii of subparagraph *b* of the first paragraph by the following subparagraphs:

"ii. the amount by which the amount by which the aggregate of the capital gains of the corporation for the period exceeds the aggregate of its taxable capital gains for the period, exceeds the amount by which the aggregate of the capital losses of the corporation for the period exceeds the aggregate of its allowable capital losses for the period,

"iii. the aggregate of all amounts each of which is an amount relating to a business carried on by the corporation at any time in the portion of the period that precedes the beginning of the corporation's first taxation year that ends after 27 February 2000, and each of which is equal to the amount by which the amount determined under the second paragraph is exceeded by the aggregate of

(1) where the period began before the corporation's adjustment time, within the meaning of section 107.1, the amount by which the aggregate of the amounts relating to the business that are determined under the third paragraph in respect of the corporation exceeds the aggregate of the amounts relating to the business that are determined under the fourth paragraph in respect of the corporation,

(2) 1/3 of the aggregate of the amounts relating to the business that, in respect of the portion of the period following the corporation's adjustment time but preceding the beginning of the corporation's first taxation year that ends after 27 February 2000, are required to be included in computing the corporation's eligible intangible capital amount by reason of subparagraph ii of paragraph *b* of section 107, as that subparagraph read in that portion of the period, and

(3) 1/3 of all amounts required to be included in computing the corporation's income by reason of paragraph *i*.1 of section 87 and that are received in the portion of the period that precedes the beginning of the corporation's first taxation year that ends after 27 February 2000,";

(3) by adding the following subparagraphs after subparagraph iii of subparagraph *b* of the first paragraph:

"iv. the amount by which 1/2 of the aggregate of all amounts each of which is an amount required by paragraph *b* of section 105 to be included in computing the corporation's income in respect of a business carried on by the corporation for a taxation year that is included in the period and that ends after 27 February 2000 but before 18 October 2000, exceeds

(1) where the corporation has deducted an amount under section 142.1 in respect of a debt established by it to have become a bad debt in a taxation year that is included in the period and that ends after 27 February 2000 but before 18 October 2000, or has an allowable capital loss for such a year by reason of the application of section 142.2, the amount determined by the formula

A + B, and

(2) in any other case, nil, and

"v. the amount by which the aggregate of all amounts each of which is an amount required by paragraph *b* of section 105 to be included in computing the corporation's income in respect of a business carried on by the corporation for a taxation year that is included in the period and that ends after 17 October 2000, exceeds

(1) where the corporation has deducted an amount under section 142.1 in respect of a debt established by it to have become a bad debt in a taxation year that is included in the period and that ends after 17 October 2000, or has an allowable capital loss for such a year by reason of the application of section 142.2, the amount determined by the formula

B + C, and

(2) in any other case, nil;";

(4) by replacing subparagraph *d* of the first paragraph by the following subparagraph:

"(*d*) the income earned or realized by a corporation for a period that ends at a time when that corporation is a foreign affiliate of another corporation is deemed to be equal to the aggregate of the amount that would be deductible by that other corporation at that time under paragraph *a* of section 746 and the amount that would be deductible by that other corporation at that time under paragraph *b* of that section if

i. that other corporation had owned all of the shares of the capital stock of that affiliate immediately before that time,

ii. that other corporation had disposed at that time of all of the shares referred to in subparagraph i for proceeds of disposition equal to their fair market value at that time, and

iii. that other corporation had made an election under section 589 in respect of the full amount of the proceeds of disposition referred to in subparagraph ii;";

(5) by replacing "personnes:" in the French text of the portion of subparagraph *e* of the first paragraph before subparagraph i by "personnes, les règles suivantes s'appliquent:";

(6) by replacing the portion of the French text of subparagraph *f* of the first paragraph before subparagraph ii by the following:

"*f*) lorsqu'une société reçoit un dividende dont une partie est un dividende imposable, les règles suivantes s'appliquent:

i. la société peut désigner, dans sa déclaration fiscale qu'elle doit produire en vertu de la présente partie pour l'année d'imposition au cours de laquelle le dividende est reçu, toute partie du dividende imposable comme étant un dividende imposable distinct;";

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

"The amount to which subparagraph iii of subparagraph *b* of the first paragraph refers is equal to the aggregate of

(*a*) where the period, referred to in subparagraph *b* of the first paragraph, began after the corporation's adjustment time but before the beginning of the corporation's first taxation year that ends after 27 February 2000, 1/3 of the corporation's eligible intangible capital amount in respect of the business at the beginning of that period;

(*b*) 1/4 of the aggregate of all intangible capital amounts in respect of the business payable or disbursed by the corporation in respect of that portion of that period that follows the corporation's adjustment time but precedes the beginning of the corporation's first taxation year that ends after 27 February 2000 and a portion of which was not included in subparagraph *c* of the fourth paragraph;

(*c*) where that period began before the corporation's adjustment time, 1/2 of the amount by which the aggregate of all amounts determined in respect of the corporation under subparagraphs *a* and *b* of the fourth paragraph exceeds the amount determined in respect of the corporation under the third paragraph; and

(*d*) 1/3 of all amounts deducted by the corporation under section 142.1 in respect of debts established by it to have become bad debts during the portion of the period that precedes the beginning of the corporation's first taxation year that ends after 27 February 2000.";

(8) by replacing the second paragraph by the following paragraph:

"The first aggregate of the amounts relating to a business referred to in subparagraph 1 of subparagraph iii of subparagraph *b* of the first paragraph, in respect of a corporation, is equal to the aggregate of the amounts relating to the business that, in respect of the portion of the period referred to in that subparagraph 1 that precedes the corporation's adjustment time, are required to be included in computing the corporation's eligible intangible capital amount by reason of subparagraph ii of paragraph *b* of section 107, as that subparagraph read during the portion of that period.";

(9) by replacing subparagraph *c* of the third paragraph by the following subparagraph:

"(*c*) 1/2 of the aggregate of the intangible capital amounts in respect of the business payable or disbursed by the corporation during the portion of that period that follows the corporation's adjustment time but that precedes the beginning of the corporation's first taxation year that ends after 27 February 2000, to the extent that the aggregate determined under the third paragraph exceeds the aggregate of the amounts determined under subparagraphs *a* and *b*.";

(10) by adding the following paragraph after the third paragraph:

"In the formulas provided for in subparagraph 1 of subparagraph iv of subparagraph *b* of the first paragraph and subparagraph 1 of subparagraph v of that subparagraph *b*,

(*a*) A is 1/2 of the amount that would be determined under subparagraph *a* of the second paragraph of section 142.1 in respect of the corporation for the last taxation year that ends in the period if no amount had been established to have become a bad debt in a taxation year that ends before 28 February 2000;

(*b*) B is 1/3 of the amount that would be determined under subparagraph *b* of the second paragraph of section 142.1 in respect of the corporation for the last taxation year that ends in the period if no amount had been established to have become a bad debt in a taxation year that ends before 28 February 2000; and

(*c*) C is the amount that would be determined under subparagraph *a* of the second paragraph of section 142.1 in respect of the corporation for the last taxation year that ends in the period if no amount had been established to have become a bad debt in a taxation year that ends before 28 February 2000."

(2) Subsection 1 applies to taxation years that end after 27 February 2000. In addition, where subparagraph *c* of the third paragraph of section 308.6 of the said Act, replaced by paragraph 9 of subsection 1, applies to taxation years that end before 28 February 2000, the reference to "subparagraphs *b* and *c*" in that subparagraph *c* shall be read as a reference to "subparagraphs *a* and *b*".

108. (1) Section 333 of the said Act is amended by replacing the first paragraph by the following paragraph:

"**333.** In this chapter, the expression "proceeds of disposition" has the meaning assigned by section 251."

(2) Subsection 1 applies in respect of transactions or events that occur after 23 December 1998.

109. (1) Section 335 of the said Act is amended by replacing "second paragraph thereof" by "third paragraph thereof".

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

110. Section 345 of the said Act is amended by replacing "by virtue of sections 47.18 to 58"in paragraph *f* by "under Division VI of Chapter II of Title II".

111. (1) Section 350 of the said Act is amended, in the French text,

(1) by replacing "frais pour l'utilisation des services publics relatifs à son ancienne résidence" in the portion of paragraph *g* before subparagraph i by "frais relatifs aux services publics à l'égard de son ancienne résidence";

(2) by striking out "relatifs à l'utilisation" in paragraph *h*.

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

112. (1) Section 358.0.1 of the said Act is amended

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

"**358.0.1.** If an individual in respect of whom an amount may be deducted because of section 752.0.14 or 752.0.15 for a taxation year files with the individual's fiscal return under this Part for the year, other than a fiscal return filed under the second paragraph of section 429 or section 681, 782 or 1003, a prescribed form containing the prescribed information, there may be deducted in computing the individual's income for the year an amount equal to the amount by which the aggregate of all amounts each of which is an amount that the individual may deduct in computing the individual's income for the year under section 78.8 or 157.18 is exceeded by the lesser of";

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

"i. that was paid in the year by the individual to a person who, at the time of the payment, is neither the individual's spouse nor under 18 years of age, on account of attendant care provided in Canada to the individual to enable the individual to perform the duties of an office or employment, to carry on a business either alone or as a partner actively engaged in the business, to carry on research or any similar work in respect of which the individual received a grant, or to attend an educational institution referred to in section 358.0.2, or a secondary school, at which the individual is enrolled in an educational program, and";

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

"(*b*) 2/3 of the aggregate of all amounts each of which is

i. an amount included under any of sections 32 to 58.3 in computing the individual's income for the year from an office or employment,

ii. the amount that would be the individual's income for the year from a business carried on either alone or as a partner actively engaged in the business if it were determined without reference to section 157.18,

iii. an amount included under any of paragraphs *e*.2 to *e*.4 of section 311 or paragraph *g* or *h* of section 312 in computing the individual's income for the year, or

iv. the amount determined under the second paragraph, where the individual is attending an educational institution referred to in section 358.0.2, or a secondary school, at which the individual is enrolled in an educational program;";

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

"The amount to which subparagraph iv of subparagraph *b* of the first paragraph refers is the least of

(*a*) $15,000;

(*b*) the product obtained by multiplying $375 by the number of weeks in the year during which the individual attends the educational institution or secondary school; and

(*c*) the amount by which the individual's income for the year, determined without reference to this section and sections 78.8 and 157.18, exceeds the aggregate of all amounts each of which is an amount determined under any of subparagraphs i to iii of subparagraph *b* of the first paragraph in respect of the individual for the year."

(2) Subsection 1 applies from the taxation year 1998. However, where section 358.0.1 of the said Act applies to a taxation year that precedes the taxation year 2000, it shall be read

(1) with subparagraph i of subparagraph *a* of the first paragraph replaced by the following subparagraph:

"i. that was paid in the year by the individual to a person who, at the time of the payment, is neither the individual's spouse nor under 18 years of age, on account of attendant care provided in Canada to the individual to enable the individual to perform the duties of an office or employment, to carry on a business either alone or as a partner actively engaged in the business, or to carry on research or any similar work in respect of which the individual received a grant, and";

(2) with subparagraph iii of subparagraph *b* of the first paragraph replaced by the following subparagraph:

"iii. an amount included under paragraph *g* or *h* of section 312 in computing the individual's income for the year, or"; and

(3) without reference to subparagraph iv of subparagraph *b* of the first paragraph and to the second paragraph.

113. (1) The said Act is amended by inserting the following section after section 358.0.1:

"**358.0.2.** The educational institution to which sections 78.8, 157.18 and 358.0.1 refer is

(*a*) an educational institution in Canada that is

i. a university, college or other educational institution designated by the Lieutenant Governor in Council of a province under the Canada Student Loans Act (Revised Statutes of Canada, 1985, chapter S-23), designated by an appropriate authority under the Canada Student Financial Assistance Act (Statutes of Canada, 1994, chapter 28), or designated by the Minister of

Education for the purposes of the Act respecting financial assistance for education expenses (chapter A-13.3), or

ii. recognized by the Minister to be an educational 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;

(*b*) a university outside Canada at which the individual was enrolled in a course, for a period of at least 13 consecutive weeks, leading to a degree, or

(*c*) 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, and commuted between the individual's residence and that educational institution."

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

114. (1) Section 359 of the said Act is amended by replacing paragraph *c*.1 by the following paragraph:

"(*c*.1) "proceeds of disposition" has the meaning assigned by section 251;".

(2) Subsection 1 applies in respect of transactions or events that occur after 23 December 1998.

115. (1) Section 422 of the said Act is amended

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

"**422.** Except as otherwise provided in this Part, the disposition or acquisition of a property by a taxpayer is deemed to be made at the fair market value of the property at the time of the disposition or acquisition, as the case may be, where

(*a*) the taxpayer acquires it by gift, succession or will, or because of a disposition that does not result in a change in the beneficial ownership of the property;";

(2) by striking out "ou" at the end of the French text of paragraph *b*;

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

"iii. to a trust because of a disposition that does not result in a change in the beneficial ownership of the property."

(2) Paragraphs 1 and 2 of subsection 1 apply in respect of acquisitions that occur after 23 December 1998.

(3) Paragraph 3 of subsection 1 applies in respect of dispositions that occur after 23 December 1998.

116. (1) Section 424 of the said Act is amended by replacing "302 to 304" in subsection 3 by "302 and 304".

(2) Subsection 1 applies in respect of dispositions that occur after 31 December 1999.

117. (1) Sections 433 and 434 of the said Act are replaced by the following sections:

"**433.** An individual who dies is deemed to have, immediately before the individual's death, disposed of each Canadian resource property and foreign resource property of the individual and received proceeds of disposition for that property equal to its fair market value immediately before the death and the person who as a consequence of the individual's death acquires such property is deemed to have acquired the property at the time of the death at a cost equal to the fair market value of the property immediately before the death.

"**434.** An individual who dies is deemed to have, immediately before the individual's death, disposed of each property that was land included in the inventory of a business of the individual and received proceeds of disposition for that property equal to its fair market value immediately before the death and the person who as a consequence of the individual's death acquires such property is deemed to have acquired the property at the time of the death at a cost equal to the fair market value of the property immediately before the death."

(2) Subsection 1 applies in respect of acquisitions that occur after 31 December 1992. However, where section 433 of the said Act applies to taxation years that begin before 1 January 2001, it shall be read as follows:

"**433.** For the purposes of paragraph *a* of section 330 and subparagraph i of paragraph *b* of each of sections 412 and 418.6, an individual who dies is deemed to have, immediately before the individual's death, disposed of each property of the individual and that paragraph or either of those subparagraphs applies to the disposition, and received proceeds of disposition for that property equal to its fair market value immediately before the death and the person who as a consequence of the individual's death acquires such property is deemed to have acquired the property at the time of the death at a cost equal to the fair market value of the property immediately before the death."

118. (1) Section 435 of the said Act is amended by replacing paragraph *a* by the following paragraph:

"(*a*) in the case of a Canadian resource property or a foreign resource property to which section 433 applies, the following rules apply:

i. the individual is deemed to have, immediately before the individual's death, disposed of the property and received proceeds of disposition therefor equal to such amount as is specified by the individual's legal representative in the individual's fiscal return filed under paragraph *c* of subsection 2 of section 1000, to the extent that the amount does not exceed the fair market value of the property immediately before the death, and

ii. the spouse or trust is deemed to have acquired the property at the time of death at a cost equal to the amount determined in respect of the disposition under subparagraph i; and".

(2) Subsection 1 applies from the taxation year 2001.

119. (1) Section 437 of the said Act is amended

(1) by replacing "under subparagraph i of paragraph *b* of section 107" in subparagraph ii of paragraph *b* by "under subparagraph *a* of the second paragraph of section 107";

(2) by replacing "under subparagraph 1 of subparagraph i of paragraph *b* of section 107" in paragraph *c* by "under subparagraph i of subparagraph *a* of the second paragraph of section 107";

(3) by replacing paragraph *d* by the following paragraph:

"(*d*) for the purpose of determining, after the individual's death, the amount required by paragraph *b* of section 105 to be included in computing the income of the person referred to in paragraph *b* in respect of any subsequent disposition of the property of the business, there shall be added to the amount determined under subparagraph ii of subparagraph *a* of the second paragraph of section 107 the proportion of the amount determined under that subparagraph ii in respect of the business of the individual immediately before the individual's death that the fair market value of that intangible capital property immediately before the time of the death is of the fair market value at that time of the aggregate of the intangible capital property of the individual in respect of the business."

(2) Paragraph 1 of subsection 1 applies to taxation years that end after 27 February 2000, except where the individual's death occurs in a taxation year of the individual that ends before 28 February 2000.

(3) Paragraphs 2 and 3 of subsection 1 apply to taxation years that end after 27 February 2000. However, where paragraph *d* of section 437 of the said Act applies in respect of the time that is immediately before the individual's death and that is in a taxation year of the individual that ends before 28 February 2000, the reference to "under that subparagraph ii" in that paragraph shall be read as a reference to "under subparagraph 2 of subparagraph i of paragraph *b* of that section".

120. (1) Section 450 of the said Act, amended by section 37 of chapter 40 of the statutes of 2002, is again amended by replacing the portion before subparagraph *a* of the first paragraph by the following:

"**450.** Where property of an individual has been transferred or assigned to a trust referred to in section 440 or in section 454, as that section applied in respect of a transfer that occurred before 1 January 2000, or a trust to which subparagraph i of paragraph *c* of section 454.1 applies, and the property was, immediately before that transfer or assignment, a share of the capital stock of a family farm corporation of the individual, an interest in a family farm partnership of the individual, land situated in Canada or depreciable property of a prescribed class situated in Canada and the property or, if the property is such land or such depreciable property, a property that is a capital replacement property therefor in respect of which the trust has made an election under section 96 or 279, was, immediately before the death of the individual's spouse who was a beneficiary under the trust, in the case of such a share, a share of the capital stock of a Canadian corporation that would be a share of the capital stock of a family farm corporation if subparagraph i of paragraph *a* of section 451 were read without reference to the words "in which the individual or a spouse, a child or the father or mother of the individual was actively engaged on a regular and continuous basis", or, in the case of such an interest, an interest in a partnership that carried on the business of farming in Canada in which it used all or substantially all of its property in carrying on that business, or, in the case of such land, such depreciable property or such capital replacement property, property used in carrying on the business of farming, the following rules apply if the property, on the death of the spouse and as a consequence thereof, is transferred or assigned and indefeasibly vested in a child of the individual who was resident in Canada immediately before the death:".

(2) Subsection 1 applies in respect of transfers or assignments from trusts that occur after 31 December 1999.

121. (1) Section 450.2 of the said Act is replaced by the following section:

"**450.2.** For the purposes of sections 436, 439, 439.1, 653, 785.1 and 785.2, the fair market value at a particular time of any property deemed to be disposed of at that time by reason of a particular individual's death or as a consequence of the particular individual becoming or ceasing to be resident in Canada shall be determined as though the fair market value at that time of any life insurance policy under which the particular individual, or any other individual not dealing at arm's length with the particular individual at that time or at the time the policy is issued, is the person whose life is insured, were equal to the cash surrender value, within the meaning of paragraph *d* of section 966, of the policy immediately before the particular individual died or became or ceased to be resident in Canada, as the case may be."

(2) Subsection 1 applies in respect of dispositions that occur after 1 October 1996.

122. (1) Section 454 of the said Act is amended

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

"**454.** Where at any time a capital property of an individual, other than a trust, is transferred in any of the circumstances to which section 454.1 applies and both the individual and the transferee are resident in Canada at that time, the capital property is deemed to be disposed of at that time by the individual and acquired by the transferee for an amount equal to the adjusted cost base of the capital property immediately before that time or, where the capital property is depreciable property, to the proportion of the undepreciated capital cost of all the property of the same class that the fair market value before that time of the capital property is of the fair market value before that time of the aggregate of all of the property of the same class.";

(2) by striking out the second paragraph.

(2) Subsection 1 applies in respect of transfers made after 31 December 1999. However, where section 454 of the said Act applies in respect of transfers made after 31 December 1999 and before 1 January 2002, the residence of a transferee trust shall be determined without reference to sections 593 to 597 of the said Act, as they read before 1 January 2002.

123. (1) The said Act is amended by inserting the following sections after section 454:

"**454.1.** Subject to section 454.2, the circumstances to which section 454 refers are the following:

(*a*) the capital property is transferred to the individual's spouse;

(*b*) the capital property is transferred to a former spouse of the individual in settlement of rights arising out of their marriage; and

(*c*) the capital property is transferred to a trust created by the individual if the terms of the deed creating it

i. entitled the individual's spouse to receive all of the income of the trust that arose before the spouse's death and to receive or otherwise obtain, to the exclusion of any other person, enjoyment of the income or capital of the trust,

ii. entitled the individual to receive all of the income of the trust that arose before the individual's death and to receive or otherwise obtain, to the exclusion of any other person, enjoyment of the income or capital of the trust, or

iii. entitled the individual and the individual's spouse to receive all of the income of the trust that arose before their deaths and to receive or otherwise obtain, to the exclusion of any other person, enjoyment of the income or capital of the trust.

"**454.2.** Section 454.1 applies to a transfer of capital property by an individual to a trust of which the terms of the deed creating it meet the conditions in subparagraph ii or iii of paragraph *c* of that section only where

(*a*) the trust was created after 31 December 1999;

(*b*) either

i. the individual attained 65 years of age at the time the trust was created, or

ii. the transfer does not result in a change in beneficial ownership of the capital property and there is immediately after the transfer no absolute or contingent right of a person, other than the individual, or partnership as a beneficiary, determined with reference to section 646.1, under the trust; and

(*c*) in the case of a trust of which the terms of the deed creating it meet the conditions in subparagraph ii of paragraph *c* of section 454.1, the trust does not make an election under subparagraph *d* of the second paragraph of section 653".

(2) Subsection 1 applies in respect of transfers made after 31 December 1999. However, where subparagraph ii of paragraph *b* of section 454.2 of the said Act applies in respect of transfers made before 16 March 2001, it shall be read as follows:

"ii. no person, other than the individual, or partnership has any absolute or contingent right as a beneficiary under the trust, determined with reference to section 646.1; and".

124. (1) Section 455.0.1 of the said Act is amended by replacing "third" in the portion before subparagraph *a* of the first paragraph by "second".

(2) Subsection 1 has effect from 1 January 2000.

125. (1) Section 462 of the said Act is amended

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

"ii. 4/3 of the amount by which that proportion of the excess determined under subparagraph *a* of the second paragraph of section 107 in respect of the individual's business immediately before the transfer that the fair market value of the property, immediately before the time of the transfer, is of the fair market value at that time of the aggregate of the individual's intangible capital property in respect of the business exceeds the amount included under paragraph *a* of section 105 in computing the income of the individual as a result of the disposition.";

(2) by replacing "under subparagraph 1 of subparagraph i of paragraph *b* of section 107" in the second paragraph by "under subparagraph i of subparagraph *a* of the second paragraph of section 107";

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

"For the purpose of determining after the time of the transfer the amount required by paragraph *b* of section 105 to be included in computing the income of the child referred to in subparagraph *c* of the first paragraph, in respect of any subsequent disposition of the property of the business, there shall be added to the amount otherwise determined under subparagraph ii of subparagraph *a* of the second paragraph of section 107 in respect of the child that proportion of the amount determined under that subparagraph ii in respect of the business of the individual immediately before the time of the transfer that the fair market value of the property transferred immediately before the time of the transfer is of the fair market value of the property at that time of the aggregate of the intangible capital property of the individual in respect of the business."

(2) Subsection 1 applies to taxation years that end after 27 February 2000. However, where section 462 of the said Act applies in respect of the time that is immediately before the transfer and that is in a taxation year of the individual that ends before 28 February 2000,

(1) the reference to "under subparagraph *a* of the second paragraph of section 107" in subparagraph ii of subparagraph *c* of the first paragraph of that section shall be read as a reference to "under subparagraph i of paragraph *b* of section 107"; and

(2) the reference to "under that subparagraph ii" in the third paragraph of that section shall be read as a reference to "under subparagraph 2 of subparagraph i of paragraph *b* of that section".

126. (1) Section 462.15 of the said Act is amended by replacing "third" in paragraph *c* by "second".

(2) Subsection 1 has effect from 1 January 2000.

127. (1) Section 467 of the said Act is replaced by the following section:

"**467.** The income, loss, taxable capital gain or allowable capital loss from property transferred by a person, in this section referred to as the "transferor", or substituted for such property is deemed to be that of the transferor during the existence of the transferor while the transferor is resident in Canada if the property or that for which it was substituted has been transferred to a trust created since 1934 and if either property meets any of the following conditions:

(*a*) it may revert to the transferor;

(*b*) it may pass to persons to be determined by the transferor at a time subsequent to the creation of the trust; and

(*c*) it may not be disposed of during the existence of the transferor without the transferor's consent."

(2) Subsection 1 applies from the taxation year 2001. However, where the portion of section 467 of the said Act before paragraph *a* applies before 12 July 2002, it shall be read as follows:

"**467.** The income, loss, taxable capital gain or allowable capital loss from property transferred by a person, in this section referred to as the "transferor", or substituted for such property is deemed to be that of the transferor during the existence of the transferor while the transferor is resident in Canada if the property or that for which it was substituted has been transferred to a trust created by the transferor since 1934 and if either property meets any of the following conditions:".

128. (1) Section 467.1 of the said Act is amended

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

"**467.1.** L'article 467 ne s'applique pas à un bien détenu dans une année d'imposition par l'une des fiducies suivantes:";

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

"(*a*) by a trust governed by a retirement compensation arrangement, a registered retirement income fund, a deferred profit sharing plan, a registered pension plan, an employee benefit plan, a profit sharing plan, a registered education savings plan, a registered retirement savings plan or a registered supplementary unemployment benefit plan;

"(*b*) by an employee trust, a segregated fund trust within the meaning of paragraph *k* of section 835, a trust referred to in subparagraph *a*.1 of the third paragraph of section 647 or a trust referred to in paragraph *m* of section 998;";

(3) by replacing the French text of subparagraphs *c* to *d* by the following subparagraphs:

"*c*) une fiducie qui ne réside pas au Canada, qui réside dans un pays dont la législation prévoit un impôt sur le revenu, qui est exemptée, en vertu de la législation du pays où elle réside, du paiement de l'impôt sur le revenu au gouvernement de ce pays et dont la création se rapporte principalement à un ou plusieurs régimes ou caisses de pension ou de retraite ou caisses ou régimes établis pour le bénéfice d'employés, ou dont l'objet principal est de gérer ces régimes ou caisses ou de fournir des prestations dans le cadre de ceux-ci;

"*c*.1) une fiducie pour l'environnement ;

"*d*) une fiducie prescrite."

(2) Subsection 1 applies to taxation years that end after 8 October 1986. However, where section 467.1 of the said Act applies,

(1) before 1 January 1991, the reference to "régime de participation différée aux bénéfices" in the French text of paragraph *a* of that section shall be read as a reference to "régime d'intéressement différé" ; and

(2) to a taxation year before the taxation year 1999, paragraph *b* of that section shall be read as follows :

"(*b*) by an employee trust, a segregated fund trust within the meaning of paragraph *k* of section 835 or a trust referred to in paragraph *m* of section 998" ;

(3) to a taxation year that ends before 23 February 1994, that section shall be read without reference to paragraph *c*.1 thereof.

(3) Notwithstanding sections 1010 to 1011 of the said Act, the Minister of Revenue shall make such assessments, reassessments or additional assessments of tax, interest or penalties payable by a taxpayer under Part I of the said Act as are necessary, for any taxation year, to give effect to the expression "retirement compensation arrangement" in paragraph *a* of section 467.1 of the said Act ; sections 93.1.8 and 93.1.12 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, with the necessary modifications, to such assessments and reassessments.

129. (1) Section 485.3 of the said Act is amended by replacing subparagraph *d* of the first paragraph by the following subparagraph :

"(*d*) the applicable fraction of the unapplied portion of a forgiven amount at any time in respect of an obligation issued by a debtor is in respect of a loss for a taxation year, the fraction required to be used under the first paragraph of section 231 for that year ;".

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

130. (1) Section 485.12 of the said Act is amended

(1) by replacing "4/3 of" in subparagraph ii of paragraph *a* by ", subject to the second paragraph, twice" ;

(2) by adding the following paragraph :

"However, where the taxation year of the debtor includes 28 February 2000 or 17 October 2000, or begins after 28 February 2000 and ends before 17 October 2000, the reference to "twice" in subparagraph ii of subparagraph *a*

of the first paragraph shall be read, with the necessary modifications, as a reference to the fraction that is the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the debtor for the year."

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

131. (1) Section 485.13 of the said Act is amended

(1) by replacing "4/3 of" in subparagraph i of subparagraph *d* of the second paragraph by ", subject to the third paragraph, twice";

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

"(*e*) E is equal to

i. where the debtor is a partnership, 1, and

ii. in any other case, subject to the third paragraph, 1/2.";

(3) by adding the following paragraph after the second paragraph:

"However, where the taxation year of the debtor includes 28 February 2000 or 17 October 2000, or begins after 28 February 2000 and ends before 17 October 2000, the following rules apply:

(*a*) the reference to the word "twice" in subparagraph i of subparagraph *d* of the second paragraph shall be read, with the necessary modifications, as a reference to the fraction that is the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the debtor for the year; and

(*b*) the reference to the fraction "1/2" in subparagraph ii of subparagraph *e* of the second paragraph shall be read as a reference to the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the debtor for the year."

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

132. (1) Section 485.27 of the said Act is amended

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

"**485.27.** Where a commercial debt obligation issued by a debtor is first deemed by section 485.25 or 485.26 to have been settled at a particular time, at a subsequent time a payment is made by the debtor of an amount in satisfaction of the principal amount of the obligation and it cannot reasonably be considered that one of the reasons the obligation became a parked obligation or became unenforceable, as the case may be, before the subsequent time was to have this section apply to the payment, in computing the debtor's income for the taxation year, in this section referred to as the "subsequent year", that

includes the subsequent time from the source in connection with which the obligation was issued, the debtor may deduct the amount determined, subject to the fourth paragraph, by the formula

0.5(A – B) – C.";

(2) by adding the following paragraph after the third paragraph:

"Where the subsequent year includes 28 February 2000 or 17 October 2000, or begins after 28 February 2000 and ends before 17 October 2000, the reference to "0.5" in the formula provided for in the first paragraph shall be read as a reference to the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the debtor for that year."

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

133. (1) Section 485.36 of the said Act is amended by replacing "paragraph *c*" in paragraph *b* by "subparagraph *c* of the first paragraph".

(2) Subsection 1 has effect from 1 January 2000.

134. (1) Section 517.4.4 of the said Act is amended

(1) by replacing "4/3 of" by "subject to the third paragraph, twice" in the following provisions of the first paragraph:

— subparagraph ii of subparagraph *a*;

— the portion of subparagraph *b* before subparagraph i;

(2) by replacing "3/4 of" in the second paragraph by "and subject to the third paragraph, 1/2 of";

(3) by adding the following paragraph after the second paragraph:

"Where the taxation year of the transferor includes 28 February 2000 or 17 October 2000or begins after 28 February 2000 and ends before 17 October 2000, the following rules apply:

(*a*) the reference to the word "twice" in subparagraph ii of subparagraph *a* of the first paragraph and the portion of subparagraph *b* of that paragraph before subparagraph i shall be read, with the necessary modifications, as a reference to the fraction that is the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the transferor for the year; and

(*b*) the reference to the fraction "1/2" in the second paragraph shall be read as a reference to the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the transferor for the year."

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

135. (1) Section 524.0.1 of the said Act is amended

(1) by replacing "under subparagraph 2 of subparagraph i of paragraph *b* of section 107" in the portion before the formula provided for in the first paragraph and in subparagraph *a* of the second paragraph by "under subparagraph ii of subparagraph *a* of the second paragraph of section 107";

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

"(*d*) D is the amount that would be included under section 105 in computing the taxpayer's income as a result of the disposition if the amounts determined under subparagraphs *c* and *d* of the second paragraph of section 105.2 were nil;".

(2) Subsection 1 applies to taxation years that end after 27 February 2000. However, paragraph 1 of that subsection does not apply where the time that is immediately before the disposition is in a taxation year of the taxpayer that ends before 28 February 2000.

136. (1) Section 560.3 of the said Act is replaced by the following section:

"**560.3.** For the purpose of determining after the winding-up the amount required by paragraph *b* of section 105 to be included in computing the parent's income in respect of the business carried on by the subsidiary immediately before the winding-up, the parent shall add to the amount otherwise determined under subparagraph ii of subparagraph *a* of the second paragraph of section 107, the amount determined under that subparagraph ii in respect of that business immediately before the winding-up."

(2) Subsection 1 applies to taxation years that end after 27 February 2000. However, where section 560.3 of the said Act applies in respect of the time that is immediately before the winding-up of the subsidiary and is in a taxation year of the subsidiary that ends before 28 February 2000, the reference to "under that subparagraph ii" in that section 560.3 shall be read as a reference to "under subparagraph 2 of subparagraph i of paragraph *b* of that section".

137. (1) Section 600.0.3 of the said Act is amended

(1) by replacing the portion before the formula provided for in the first paragraph by the following:

"**600.0.3.** Notwithstanding sections 231, 231.1, 231.2 and 600, where, in a particular taxation year of a taxpayer, the taxpayer is a member of a partnership with a fiscal period that ends in the particular year, the taxable capital gain, other than that part of the gain that can reasonably be attributed to an amount deemed under section 105.3 to be a taxable capital gain of the

partnership, allowable capital loss or allowable business investment loss of the taxpayer for the particular year in respect of the partnership is determined by the formula";

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

"In the formula provided for in the first paragraph,

(*a*) A is the taxpayer's taxable capital gain, other than that part of the gain that can reasonably be attributed to an amount deemed under section 105.3 to be a taxable capital gain of the partnership, allowable capital loss or allowable business investment loss, as the case may be, for the particular year, in respect of the partnership that would, but for this section, be determined under section 600;

(*b*) B is the fraction that applies under section 231, 231.1 or 231.2, as the case may be, for the particular year in respect of the taxpayer; and

(*c*) C is the fraction that is used under any of sections 231, 231.1 and 231.2 for the fiscal period of the partnership."

(2) Subsection 1 applies to taxation years that end after 27 February 2000, except where paragraph 2 of that subsection replaces subparagraph *c* of the second paragraph of section 600.0.3 of the said Act, in which case that paragraph 2 applies to fiscal periods that end after 27 February 2000. However, where the portion of the first paragraph of section 600.0.3 of the said Act before the formula and subparagraphs *b* and *c* of the second paragraph of that section apply in respect of gifts made before 15 March 2000, they shall be read without the reference to ", 231.1".

138. (1) The said Act is amended by inserting the following section after section 600.0.3:

"**600.0.4.** For the purposes of section 600.0.3, where the fraction referred to in subparagraph *c* of the second paragraph of that section cannot be determined by a taxpayer in respect of a fiscal period of a partnership that ended before 28 February 2000, or includes 28 February 2000 or 17 October 2000, the fraction is deemed to be

(*a*) where the fiscal period ended before or began before 28 February 2000, 3/4;

(*b*) where the fiscal period began after 27 February 2000 but before 18 October 2000, 2/3; and

(*c*) in any other case, 1/2."

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

139. (1) Section 613.6 of the said Act is amended by replacing paragraph *a* by the following paragraph:

"(*a*) by operation of any law governing the partnership arrangement, the liability of the member as a member of the partnership is limited, except by operation of a provision of a statute of Canada or a province that limits the member's liability only for debts and other obligations of the partnership, or any member of the partnership, arising from the misconduct or faults or omissions or negligent acts that another member of the partnership or an employee, agent or mandatary, or representative of that member or of the partnership commits in the course of the partnership's business while the partnership is a limited liability partnership referred to in that provision;".

(2) Subsection 1 has effect from 1 January 1998. However, where paragraph *a* of section 613.6 of the said Act applies before 21 June 2001, it shall be read without reference to "of that member or".

140. (1) Section 622 of the said Act is amended by replacing "under subparagraph i of paragraph *b* of section 107" in the portion before paragraph *a* by "under subparagraph *a* of the second paragraph of section 107".

(2) Subsection 1 applies to fiscal periods of a partnership that end after 27 February 2000.

141. (1) Section 624.1 of the said Act is amended

(1) by replacing "under subparagraph 1 of subparagraph i of paragraph *b* of section 107" in paragraph *b* by "under subparagraph i of subparagraph *a* of the second paragraph of section 107";

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

"(*c*) for the purpose of determining after the particular time the amount required by paragraph *b* of section 105 to be included in computing the person's income in respect of any subsequent disposition of the property of the business, the amount determined under subparagraph ii of subparagraph *a* of the second paragraph of section 107 is deemed to be equal to that person's share of the amount determined under that subparagraph ii in respect of the partnership's business immediately before the particular time."

(2) Subsection 1 applies to taxation years that end after 27 February 2000. However, where paragraph *c* of section 624.1 of the said Act applies in respect of the time that is immediately before the particular time referred to in that paragraph *c* and is in a fiscal period of the partnership that ends before 28 February 2000, the reference to "under that subparagraph ii" in that paragraph *c* shall be read as a reference to "under subparagraph 2 of subparagraph i of paragraph *b* of that section".

142. (1) Section 628 of the said Act is amended by replacing "under subparagraph i of paragraph *b* of section 107" in the portion before paragraph *a* by "under subparagraph *a* of the second paragraph of section 107".

(2) Subsection 1 applies to fiscal periods of a partnership that end after 27 February 2000.

143. (1) Section 630.1 of the said Act is amended

(1) by replacing "under subparagraph 1 of subparagraph i of paragraph *b* of section 107" in paragraph *a* by "under subparagraph i of subparagraph *a* of the second paragraph of section 107";

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

"(*b*) for the purpose of determining after the particular time the amount required by paragraph *b* of section 105 to be included in computing the person's income in respect of any subsequent disposition of the property of the business, the amount determined under subparagraph ii of subparagraph *a* of the second paragraph of section 107 is deemed to be equal to the amount determined under that subparagraph ii in respect of the partnership's business immediately before the particular time."

(2) Subsection 1 applies to taxation years that end after 27 February 2000. However, where paragraph *b* of section 630.1 of the said Act applies in respect of the time that is immediately before the particular time referred to in that paragraph *b* and that is in a fiscal period of the partnership that ends before 28 February 2000, the reference to "under that subparagraph ii" in that paragraph *b* shall be read as a reference to "under subparagraph 2 of subparagraph i of paragraph *b* of that section".

144. (1) Section 634 of the said Act is amended by replacing "3/4 of" by "subject to section 635.1, 1/2 of".

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

145. (1) Section 635 of the said Act is amended by replacing "4/3 of his" in paragraph *d* by ", subject to section 635.1, twice the taxpayer's".

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

146. (1) The said Act is amended by inserting the following section after section 635:

"**635.1.** Where the taxation year of the taxpayer includes 28 February 2000 or 17 October 2000, or begins after 28 February 2000 and ends before 17 October 2000, the following rules apply:

(*a*) the reference to the fraction "1/2" in section 634 shall be read as a reference to the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the taxpayer for the year; and

(*b*) the reference to the word "twice" in paragraph *d* of section 635 shall be read, with the necessary modifications, as a reference to the fraction that is the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the taxpayer for the year."

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

147. (1) Section 637 of the said Act is amended

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

"**637.** Notwithstanding section 231, a taxpayer's taxable capital gain from the disposition of an interest in a partnership to any person exempt from tax under sections 980 to 999.1 is deemed to be equal to the total of

(*a*) subject to the second paragraph, 1/2 of the portion of the taxpayer's capital gain for the year therefrom that can reasonably be attributed to the increase in the value of any capital property of the partnership other than depreciable property; and";

(2) by adding the following paragraph:

"However, where the taxation year of the taxpayer includes 28 February 2000 or 17 October 2000, or begins after 28 February 2000 and ends before 17 October 2000, the reference to the fraction "1/2" in subparagraph *a* of the first paragraph shall be read as a reference to the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the taxpayer for the year."

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

148. (1) Section 646 of the said Act is amended

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

"**646.** In this Part, unless the context indicates a different meaning and subject to the third paragraph, 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 trust property.";

(2) by adding the following paragraph after the second paragraph:

"However, except for the purposes of this section, subparagraph v of subparagraph *b* of the first paragraph of section 248, subparagraph *g* of the second paragraph of that section and section 646.1, an arrangement under which a trust can reasonably be considered to act as agent or mandatary for all

of the beneficiaries under the trust in respect of all of the dealings with all of the trust's property, is deemed not to be a trust, unless the trust is described in any of paragraphs *a* to *d* of the third paragraph of section 647."

(2) Paragraph 1 of subsection 1 applies from the taxation year 1998. However, where the first paragraph of section 646 of the said Act applies in respect of transfers of property that occur before 24 December 1998, it shall be read as follows:

"**646.** In this Part, unless the context indicates a different meaning, 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 trust property."

(3) Paragraph 2 of subsection 1 applies in respect of transfers of property that occur after 23 December 1998.

149. (1) The said Act is amended by inserting the following section after section 646:

"**646.1.** Notwithstanding section 7.11.2 and for the purposes of subparagraph ii of paragraph *b* of section 454.2, section 646, subparagraph *a*.4 of the first paragraph of section 653 and paragraph *e* of section 692.5, a person or partnership is deemed not to be a beneficiary under a trust at a particular time where the person or partnership is beneficially interested in the trust at that time solely because of

(*a*) a right that may arise as a consequence of the terms of the will of an individual who, at that time, is a beneficiary under the trust;

(*b*) a right that may arise as a consequence of the law governing the intestacy of an individual who, at that time, is a beneficiary under the trust;

(*c*) a right as a shareholder under the terms of the shares of the capital stock of a corporation that, at that time, is a beneficiary under the trust;

(*d*) a right as a member of a partnership under the terms of the partnership agreement, where, at that time, the partnership is a beneficiary under the trust; or

(*e*) any combination of rights described in paragraphs *a* to *d*."

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

150. (1) Section 647 of the said Act is amended

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

"For the purposes of sections 653 to 656.2, 659, 660, 665, 665.1, 684 and 685 and paragraph *b* of section 657 at any time, a trust does not include a unit trust or a particular trust described in the fourth paragraph and, for the purposes of sections 653 to 656.2, 659, 660, 661, 662, 663.1, 663.2, 665, 665.1, 684 to 688.2, 690.0.1 and 691 to 692.0.1 and paragraph *b* of section 657, a trust does not include any of the following trusts:";

(2) by inserting the following subparagraph after subparagraph *a* of the third paragraph:

"(*a*.1) a trust, other than a trust described in paragraph *a* or *d*, all or substantially all of the property of which is held for the purpose of providing benefits to individuals each of whom is provided with benefits in respect of, or because of, an office or employment or former office or employment of any individual;";

(3) by replacing the portion of the fourth paragraph before subparagraph *b* by the following:

"The particular trust referred to in the third paragraph is a trust all interests in which have vested indefeasibly at the time referred to in that paragraph, and that is not

(*a*) an *alter ego* trust, a joint spousal trust, a post-1971 spousal trust or a trust to which subparagraph *a*.4 of the first paragraph of section 653 applies;";

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

"(*d*) a trust that is at that time resident in Canada where the total fair market value at that time of all interests in the trust held at that time by beneficiaries under the trust who at that time are not resident in Canada exceeds 20% of the total fair market value at that time of all interests in the trust held at that time by beneficiaries under the trust;

"(*e*) a trust under the terms of which, at that time, all or part of a person's interest in the trust is to be terminated with reference to a period of time, including a period of time determined with reference to the person's death, otherwise than as a consequence of terms of the trust under which an interest in the trust is to be terminated as a consequence of a distribution to the person, or the person's succession, of trust property if the fair market value of the property to be distributed is required to be proportional to the fair market value of that interest immediately before the distribution; or

"(*f*) a trust that, before that time and after 17 December 1999, has made a distribution to a beneficiary in respect of the beneficiary's capital interest in the trust, if the distribution can reasonably be considered to have been financed by a liability of the trust and one of the reasons for incurring the liability was to avoid taxes otherwise payable under this Part as a consequence of the death of an individual."

(2) Paragraphs 1 and 3 of subsection 1 apply from the taxation year 1998. However, where the portion of the third paragraph of section 647 of the said Act before subparagraph *a* applies before 1 January 2000, the reference to "688.2" in that portion shall be read as a reference to "689".

(3) Paragraph 2 of subsection 1 applies from the taxation year 1999.

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

(1) where the fourth paragraph of section 647 of the said Act applies before 24 December 1998, it shall be read without reference to subparagraph *d* thereof; and

(2) where the trust so elects in a document filed with the Minister of Revenue on or before the trust's filing-due date for the taxation year of the trust that includes 3 July 2003, or on any later date that is acceptable to the Minister, subparagraph *e* of the fourth paragraph of section 647 of the said Act, where it applies before 1 January 2001, shall be read as follows:

"(*e*) a trust any interest in which may become effective in the future; or".

151. (1) Section 649 of the said Act is amended

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

"(*b*) it meets the following conditions:

i. throughout the taxation year in which the particular time occurs, in this paragraph referred to as the "current year", the trust was resident in Canada,

ii. throughout the period or periods, in this paragraph referred to as the "relevant periods", that are in the current year and throughout which the conditions under paragraph *a* are not satisfied in respect of the trust, its only undertaking is";

(2) by replacing the portion of subparagraph iii of paragraph *b* before subparagraph 1 by the following:

"iii. throughout the relevant periods at least 80% of its property consists of any combination of";

(3) by replacing subparagraphs iv and v of paragraph *b* by the following subparagraphs:

"iv. one of the following conditions is met:

(1) not less than 95% of its income for the current year, determined without reference to section 295.1 and paragraph *a* of section 657, is derived from, or from the disposition of, investments described in subparagraph iii, or

(2) not less than 95% of its income for each of the relevant periods, determined without reference to section 295.1 and paragraph *a* of section 657 and as though each of those periods were a taxation year, is derived from, or from the disposition of, investments described in subparagraph iii,

"v. throughout the relevant periods, not more than 10% of its property consists of bonds, securities or shares of capital stock of any one corporation or debtor other than the Government of Québec, the Government of Canada, the government of another province or a Canadian municipality,";

(4) by adding the following subparagraph after subparagraph v of paragraph *b*:

"v.1. where the trust would not be a unit trust at the particular time if this paragraph were read without reference to this subparagraph and subparagraph iii were read without reference to subparagraph 6, the units of the trust are listed at any time in the current year or in the following taxation year on a Canadian stock exchange; and".

(2) Subsection 1 applies from the taxation year 1998. However, where subparagraph v.1 of paragraph *b* of section 649 of the said Act applies before 26 November 1999, the reference to "Canadian stock exchange" in that subparagraph v.1 shall be read as a reference to "Canadian stock exchange that is a stock exchange referred to in paragraph *a* of section 21.11.20R1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1)".

152. (1) Section 649.1 of the said Act is amended

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

"**649.1.** "Personal trust" means

(*a*) a testamentary trust; or

(*b*) an *inter vivos* trust no beneficial interest in which was acquired for consideration payable directly or indirectly to the trust or to any person who has made a contribution to the trust by way of transfer, assignment or other disposition of property but, after 31 December 1999, does not include a unit trust.";

(2) by striking out the second paragraph.

(2) Subsection 1 has effect from 24 December 1998.

153. (1) Sections 650 and 651 of the said Act are replaced by the following sections:

"**650.** For the purposes of the definition of "income interest" in section 683, the income of a trust is computed without reference to the provisions of this Part and, for the purposes of the second paragraph of sections 440 and 441.1, paragraph *c* of section 454.1, the definition of "pre-1972 spousal trust" in section 652.1 and subparagraph *a* of the first paragraph of section 653, the income of a trust is equal to its income computed without reference to the provisions of this Part minus any dividend included therein that is not included by reason of sections 501 to 503 in computing the income of the trust for the purposes of the other provisions of this Part, or that is referred to in section 1106 or 1116.

"**651.** For the purposes of the second paragraph of sections 440 and 441.1, paragraph *c* of section 454.1, the definition of "pre-1972 spousal trust" in section 652.1 and subparagraph *a* of the first paragraph of section 653, where a trust has been created by an individual, no person is deemed to have received or otherwise obtained or to be entitled to receive or otherwise obtain enjoyment of any income or capital of the trust solely because of the payment, or provision for payment, by the trust of any duty by reason of the individual's death or the death of the individual's spouse who is a beneficiary under the trust, in respect of any property of, or interest in, the trust or any tax in respect of any income of the trust."

(2) Subsection 1 applies from the taxation year 2000, except for the purposes of sections 454 to 462.0.1 of the said Act in respect of transfers made before 1 January 2000.

154. (1) The said Act is amended by inserting the following sections after section 651.1:

"**651.2.** Where at a particular time the terms that govern a trust are varied, the following rules apply:

(*a*) subject to the second paragraph, for the purposes of sections 653 to 656.2, the trust is, at and after that time, deemed to be the same trust as, and a continuation of, the trust immediately before that time;

(*b*) for the purposes of the definition of "personal trust" in section 1, paragraph *n* of section 257 and section 686, no interest of a beneficiary under the trust before its terms were varied is considered to be consideration for the interest of the beneficiary in that trust whose terms were varied.

Subparagraph *a* of the first paragraph does not affect the application of subparagraph *a*.1 of the first paragraph of section 653.

"**651.3.** For the purposes of the definition of "personal trust" in section 1, paragraph *n* of section 257 and section 686, the following rules apply:

(*a*) an interest in a trust is deemed not to be acquired for consideration solely because it was acquired in satisfaction of any right as a beneficiary under the trust to enforce payment of an amount by the trust; and

(*b*) where all the beneficial interests in an *inter vivos* trust acquired by way of the transfer, assignment or other disposition of property to that trust were acquired by any of the persons described in the second paragraph, any beneficial interest in that trust acquired by such a person is deemed to be acquired for no consideration.

The person to which subparagraph *b* of the first paragraph refers is

(*a*) one person; or

(*b*) two or more persons who would be related to each other if

i. a trust and another person were related to each other, where the other person is a beneficiary under the trust or is related to a beneficiary under the trust, and

ii. a trust and another trust were related to each other, where a beneficiary under the trust is a beneficiary under the other trust or is related to a beneficiary under the other trust."

(2) Subsection 1, where it enacts section 651.2 of the said Act, applies from the taxation year 2000.

(3) Subsection 1, where it enacts section 651.3 of the said Act, has effect from 24 December 1998.

155. (1) Section 652.1 of the said Act is amended

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

""exempt property" of a taxpayer at any time means property any income or gain from the disposition of which by the taxpayer at that time would not cause an increase in the taxpayer's tax payable under this Part because the taxpayer is not resident in Canada or because of a provision contained in a tax agreement;";

(2) by adding the following definitions in alphabetical order:

""*alter ego* trust" means a trust to which subparagraph *a* of the first paragraph of section 653 would apply if that subparagraph were read without reference to subparagraph i and subparagraph 2 of subparagraph ii;";

""joint spousal trust" means a trust to which subparagraph *a* of the first paragraph of section 653 would apply if that subparagraph were read without reference to subparagraph i and subparagraph 1 of subparagraph ii;";

““post-1971 spousal trust” means a trust that would be described in subparagraph *a* of the first paragraph of section 653 if that subparagraph were read without reference to subparagraph ii;”.

(2) Paragraph 1 of subsection 1 has effect from 1 January 1993. However, where the definition of “exempt property” in section 652.1 of the said Act applies to a taxation year before the taxation year 1998, it shall be read as follows:

““exempt property” of a taxpayer at any time means property any income or gain from the disposition of which by the taxpayer at that time would not cause an increase in the taxpayer’s tax payable under this Part because the taxpayer is not resident in Canada or because of a provision contained in a tax agreement between Québec and a particular country in respect of income tax that has the force of law in Québec or, in the absence of such an agreement, because of a tax convention or agreement between Canada and a particular country that has the force of law in Canada;”.

(3) Paragraph 2 of subsection 1, where it enacts the definition of “post-1971 spousal trust”, applies in respect of trusts created after 31 December 1971.

(4) Paragraph 2 of subsection 1, where it enacts the definitions of “*alter ego* trust” and “joint spousal trust”, applies in respect of trusts created after 31 December 1999.

156. (1) Section 652.2 of the said Act is repealed.

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

157. (1) Section 653 of the said Act is amended

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

“**653.** A trust is, at the end of each of the following days, deemed to dispose of each property of the trust, other than exempt property, that is capital property, other than excluded property, and to reacquire the property immediately after that day or land included in the inventory of a business of the trust:

(*a*) the day on which

i. the spouse of the individual who created the trust died if the terms of the deed creating it entitled the spouse to receive all of the income of the trust that arose before the spouse’s death and to receive or otherwise obtain, to the exclusion of any other person, enjoyment of the income or capital of the trust, or

ii. the individual died or, if it is later, the day on which the individual's spouse died, if the trust is a trust described in subparagraph ii of subparagraph *d* of the second paragraph and the terms of the deed creating it

(1) entitled the individual to receive all of the income of the trust that arose before the individual's death and to receive or otherwise obtain, to the exclusion of any other person, enjoyment of the income or capital of the trust, or

(2) entitled the individual and the individual's spouse to receive all of the income of the trust that arose before their deaths and to receive or otherwise obtain, to the exclusion of any other person, enjoyment of the income or capital of the trust;";

(2) by inserting the following subparagraphs after subparagraph *a*.1 of the first paragraph:

"(*a*.2) where the trust designates an amount in respect of a beneficiary as the beneficiary's capital interest in the trust, it can reasonably be considered that the distribution was financed by a liability of the trust and one of the reasons for incurring the liability was to avoid taxes otherwise payable under this Part as a consequence of the death of an individual, the day on which the distribution is made, determined as if a day ends for the trust immediately after the time at which each distribution is made by the trust to a beneficiary in respect of the beneficiary's capital interest in the trust;

"(*a*.3) where property, other than property described in the fourth paragraph, has been transferred by an individual after 17 December 1999 to the trust in circumstances in which section 454 applied, it can reasonably be considered that the property was so transferred in anticipation that the individual would subsequently cease to be resident in Canada and the individual subsequently ceases to be resident in Canada, the first day after that transfer during which the individual ceases to be resident in Canada, determined as if a day ends for the trust immediately after each time at which the individual ceases to be resident in Canada;

"(*a*.4) where the trust is a trust to which property was transferred by a taxpayer who is an individual, other than a trust, in circumstances in which sections 454 to 462.0.1 or section 692.8 applied, the transfer did not result in a change in beneficial ownership of that property and no person, other than the taxpayer, or partnership has any absolute or contingent right as a beneficiary under the trust, determined with reference to section 646.1, the day on which the taxpayer dies;";

(3) by replacing "subparagraph *a* or *a*.1" in subparagraph *b* of the first paragraph by "any of subparagraphs *a*, *a*.1 and *a*.4";

(4) by replacing "subparagraph *a* or *a*.1" in subparagraph *c* of the first paragraph by "any of subparagraphs *a* to *a*.4";

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

"(*d*) a trust, other than a trust the terms of which are described in subparagraph 1 of subparagraph ii of subparagraph *a* of the first paragraph that elects in its fiscal return filed under this Part for its first taxation year that this subparagraph not apply, that was created after 31 December 1999 by an individual during the individual's lifetime and that, at any time after that date, was

i. a trust described in subparagraph *a* of the first paragraph, or

ii. a trust that was created by a taxpayer who had attained 65 years of age.";

(6) by adding the following paragraph after the third paragraph:

"The property to which subparagraph *a*.3 of the first paragraph refers is

(*a*) an immovable situated in Canada;

(*b*) a Canadian resource property;

(*c*) a timber resource property;

(*d*) a capital property used in a business carried on through an establishment in Canada;

(*e*) an intangible capital property in respect of a business carried on through an establishment in Canada;

(*f*) a property described in the inventory of a business carried on through an establishment in Canada; or

(*g*) a prescribed property."

(2) Paragraph 1 of subsection 1 applies to days after 23 December 1998 that are determined in respect of a trust under section 653 of the said Act, and, for the purpose of determining the cost amount of property to a trust after that date, to days after 31 December 1992 that are determined in respect of the trust under that section. However, where subparagraph *a* of the first paragraph of that section applies to taxation years before the taxation year 2000, it shall be read as follows:

"(*a*) the day on which the spouse of the individual who created the trust died if the terms of the deed creating it entitled the spouse to receive all of the income of the trust that arose before the spouse's death and to receive or otherwise obtain, to the exclusion of any other person, enjoyment of the income or capital of the trust;".

(3) Paragraph 2 of subsection 1, where it enacts subparagraphs *a*.2 and *a*.3 of the first paragraph of section 653 of the said Act, and paragraph 6 of that subsection 1 apply to days after 17 December 1999 that are determined under that section 653.

(4) Paragraph 2 of subsection 1, where it enacts subparagraph *a*.4 of the first paragraph of section 653 of the said Act, and paragraph 3 of subsection 1 apply

(1) from the taxation year 2000; or

(2) after 23 December 1998, where a trust so elects in a document filed with the Minister of Revenue on or before 8 September 2003, or on any later date that is acceptable to the Minister.

(5) Paragraphs 4 and 5 of subsection 1 apply from the taxation year 2000.

158. (1) Section 654 of the said Act is amended by inserting ", determined with reference to section 450.2," after "at that time".

(2) Subsection 1 applies to days after 23 December 1998 that are determined in respect of a trust under section 653 of the said Act, amended by subsection 1 of section 157, and, for the purpose of determining the cost amount of property to a trust after that latter date, to days after 31 December 1992 that are determined in respect of the trust under that section 653.

159. (1) Section 656.4 of the said Act is amended

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

"(*c*) section 692.8 does not apply to a disposition by the trust during the period described in paragraph *b*.";

(2) by striking out paragraph *d*.

(2) Subsection 1 applies in respect of transfers made after 23 December 1998.

160. (1) Section 656.9 of the said Act is amended

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

"**656.9.** Where capital property, other than excluded property, land included in inventory, Canadian resource property or foreign resource property is transferred at a particular time by a trust, in this section referred to as the "transferor trust", to another trust, in this section referred to as the "transferee

trust", in circumstances in which subparagraph *b* of the second paragraph of section 248 or section 688 or 692.8 applies, the following rules apply:

(*a*) subject to paragraphs *b* to *b*.3, for the purposes of sections 653 to 656.3 after the particular time,

i. the first day, in this section referred to as the "disposition day", that ends at or after the particular time that would, but for subparagraphs *a*.2 and *a*.3 of the first paragraph of section 653, be determined in respect of the transferee trust is deemed to be the earliest of";

(2) by replacing subparagraph 3 of subparagraph i of paragraph *a* by the following subparagraph:

"(3) where the transferor trust is a joint spousal trust, a post-1971 spousal trust or a pre-1972 spousal trust and the spouse referred to in subparagraph *a* of the first paragraph of section 653 or in the definition of "pre-1972 spousal trust" in section 652.1, is alive at the particular time, the first day that ends at or after the particular time,";

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

"(3.1) where the transferor trust is an *alter ego* trust, a trust to which subparagraph *a*.4 of the first paragraph of section 653 applies or a joint spousal trust, and the taxpayer referred to in subparagraph *a* or *a*.4 of that first paragraph, as the case may be, is alive at the particular time, the first day that ends at or after the particular time, and";

(4) by replacing "jour d'aliénation" by "jour de l'aliénation" in the French text of the following provisions:

— subparagraph 4 of subparagraph i of paragraph *a*;

— subparagraph ii of paragraph *a*;

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

"(*b*) where the transferor trust is a trust, in this paragraph referred to as an "eligible trust", that is a post-1971 spousal trust or a pre-1972 spousal trust, and the spouse referred to in subparagraph *a* of the first paragraph and the second paragraph of section 653 or in the definition of "pre-1972 spousal trust" in section 652.1 is alive at the particular time, paragraph *a* does not apply in respect of the transfer where the transferee trust is also an eligible trust;";

(6) by inserting the following paragraphs after paragraph *b*:

"(*b*.1) paragraph *a* does not apply in respect of the transfer where

i. the transferor trust is an *alter ego* trust,

ii. the taxpayer referred to in subparagraph *a* of the first paragraph of section 653 is alive at the particular time, and

iii. the transferee trust is an *alter ego* trust;

"(*b*.2) paragraph *a* does not apply in respect of the transfer where

i. the transferor trust is a joint spousal trust,

ii. either the taxpayer referred to in subparagraph *a* of the first paragraph of section 653, or the taxpayer's spouse referred to in that subparagraph, is alive at the particular time, and

iii. the transferee trust is a joint spousal trust;

"(*b*.3) paragraph *a* does not apply in respect of the transfer where

i. the transferor trust is a trust to which subparagraph *a*.4 of the first paragraph of section 653 applies,

ii. the taxpayer referred to in subparagraph *a*.4 of the first paragraph of section 653 is alive at the particular time, and

iii. the transferee trust is a trust to which subparagraph *a*.4 of the first paragraph of section 653 applies; and";

(7) by replacing "réputé être un jour" in the French text of paragraph *c* by "réputé un jour".

(2) Paragraph 1 of subsection 1, where it replaces the portion of section 656.9 of the said Act before paragraph *a*, applies in respect of transfers made after 11 February 1991. However, in respect of transfers made before 24 December 1998, that portion shall be read as follows:

"**656.9.** Where capital property, other than excluded property, land included in inventory, Canadian resource property or foreign resource property is transferred at a particular time by a trust, in this section referred to as the "transferor trust", to another trust, in this section referred to as the "transferee trust", in circumstances in which paragraph *d* of subsection 2 of section 248 or section 688 applies, and the transferee trust is not a particular trust described in the fourth paragraph of section 647, the following rules apply:".

(3) Paragraph 1 of subsection 1, where it replaces the portion of paragraph *a* of section 656.9 of the said Act before subparagraph 1 of subparagraph i, applies in respect of transfers made after 17 December 1999.

(4) Paragraphs 2, 3, 5 and 6 of subsection 1 apply in respect of transfers made after 31 December 1999.

(5) Paragraph 4 of subsection 1 has effect from 18 December 1999.

161. (1) Section 657 of the said Act is amended

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

"ii. where the trust is a post-1971 spousal trust that was created after 20 December 1991or would be such a trust if the reference in subparagraph *a* of the second paragraph of section 653 to "at the time it was created" were read as a reference to "on 20 December 1991", and the spouse referred to in subparagraph *a* of the first paragraph of that section in respect of the trust is alive throughout the year, such part of the amount that would be its income for the year as became payable in the year to a beneficiary other than the spouse or was included under section 662 in computing the income of a beneficiary other than the spouse, but for";

(2) by inserting the following subparagraph after subparagraph ii of paragraph *a*:

"ii.1 where the trust is an *alter ego* trust or a joint spousal trust and the death or the later death, as the case may be, referred to in subparagraph ii of subparagraph *a* of the first paragraph of section 653 has not occurred before the end of the year, such part of the amount that, but for this paragraph, paragraph *b* and sections 92.5.2 and 691, would be its income as became payable in the year to a beneficiary, other than a taxpayer or a spouse referred to in subparagraph 1 or 2 of subparagraph ii of subparagraph *a* of the first paragraph of section 653 or is included under section 662 in computing the income of a beneficiary, other than such a taxpayer or spouse, and";

(3) by replacing subparagraph iii of paragraph *a* by the following subparagraph:

"iii. where the trust is an *alter ego* trust, a joint spousal trust, a trust to which subparagraph *a*.4 of the first paragraph of section 653 applies or a post-1971 spousal trust and the death or the later death, as the case may be, referred to in subparagraph *a* or *a*.4 of that first paragraph in respect of the trust occurred in the year, an amount equal to the amount by which the maximum amount that would be deductible under this section in computing the trust's income for the year if this section were read without reference to this subparagraph, exceeds the aggregate of

(1) the amount that, but for this paragraph, paragraph *b* and sections 92.5.2 and 691, would be the trust's income that became payable in the year to the taxpayer or spouse referred to in subparagraph i of subparagraph *a* of the first paragraph of section 653, subparagraph 1 or 2 of subparagraph ii of that subparagraph *a* or subparagraph *a*.4 of the first paragraph of that section, and

(2) the amount that would be the trust's income for the year if that income were computed without reference to this paragraph and paragraph *b* and as if

the year began immediately after the end of the day on which the death occurred in the year;".

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

162. (1) Section 657.1 of the said Act is amended by adding the following paragraph after paragraph *b*:

"(*c*) where that section applies to an *inter vivos* trust deemed by section 851.25 to exist in respect of a congregation that is a part of a religious organization, the amount that may be deducted by such a trust under that paragraph *a* is equal to such part of its income as became payable in the year to a beneficiary."

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

163. (1) Section 658 of the said Act is amended, in the definition of "accumulating income" in the first paragraph,

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

"(*a*) without reference to subparagraphs *a* and *a*.1 of the first paragraph of section 653, sections 656.2 and 656.3, paragraph *b* of section 657 and section 691;";

(2) by striking out paragraphs *c* and *d*.

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

164. (1) Section 660 of the said Act is amended by replacing paragraphs *a* and *b* by the following paragraphs:

"(*a*) where the trust is, at the end of the year, an *alter ego* trust, a joint spousal trust, a post-1971 spousal trust or a pre-1972 spousal trust and a beneficiary, referred to in subparagraph *a* of the first paragraph of section 653 or in the definition of "pre-1972 spousal trust" in section 652.1, is alive at the end of the year, an amount equal to the trust's accumulating income for the year, if the preferred beneficiary is a beneficiary so referred to, and, in any other case, nil;

"(*b*) where paragraph *a* does not apply and the preferred beneficiary's interest in the trust is not solely contingent on the death of another beneficiary who has a capital interest in the trust and who does not have an income interest in the trust, the trust's accumulating income for the year; and".

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

165. (1) Section 663 of the said Act is amended

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

"(*a*) in the case of a trust, other than a trust referred to in subparagraph *a* of the third paragraph of section 647, such part of the amount that, but for paragraphs *a* and *b* of section 657, would be the trust's income for the trust's taxation year that ended in the particular year as became payable in the trust's taxation year to the beneficiary; and";

(2) by striking out paragraph *c*.

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

166. (1) Sections 665.1 and 666 of the said Act are replaced by the following sections:

"**665.1.** The cost to a taxpayer of an income interest of the taxpayer in a trust is deemed to be nil unless any part of the interest was acquired by the taxpayer from a person who was the beneficiary in respect of the interest immediately before its acquisition by the taxpayer, or the cost of any part of the interest would be determined not to be nil under paragraph *c* of section 785.1 or 785.2.

"**666.** The portion of a taxable dividend received by a trust in a taxation year throughout which it was resident in Canada on a share of the capital stock of a taxable Canadian corporation that may reasonably be considered, having regard to the circumstances and the terms and conditions of the trust arrangement, to be part of the amount included, under any of sections 659 and 661 to 663, in computing the income of a beneficiary under the trust for a particular taxation year, is deemed, for the purposes of the second paragraph of section 497, the third and fourth paragraphs of section 686 and sections 738 to 745, not to have been received by the trust and is deemed, for the purposes of this Part, to be a taxable dividend on the share received by the beneficiary in the particular year from the corporation.

The presumptions in the first paragraph are valid only if the portion referred to in that paragraph has been exclusively designated by the trust, in its fiscal return for the year under this Part, in respect of the beneficiary."

(2) Subsection 1, where it replaces section 665.1 of the said Act, applies from the taxation year 2000.

(3) Subsection 1, where it replaces section 666 of the said Act, applies from the taxation year 2001.

167. (1) Section 668.1 of the said Act is amended by inserting "or a trust referred to in section 53" after "personal trust" in the portion before paragraph *a*.

(2) Subsection 1 applies to taxation years of a trust that begin after 22 February 1994.

168. (1) The said Act is amended by inserting the following sections after section 668.4:

"**668.5.** Where an amount is designated in respect of a beneficiary by a trust for a particular taxation year of the trust that includes 28 February 2000 or 17 October 2000 and that amount, in this section referred to as the "allocated gain" is, because of section 668, deemed to be a taxable capital gain of the beneficiary from the disposition of capital property for the taxation year of the beneficiary in which the particular year ends, the following rules apply:

(*a*) the beneficiary is deemed to have realized capital gains, in this section referred to as the "deemed gains", from the disposition of capital property in the beneficiary's taxation year in which the particular year ends equal to the amount by which the amount obtained by dividing the amount of the allocated gain by the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the trust for the particular year exceeds the amount claimed by the beneficiary not exceeding the beneficiary's exempt capital gains balance for the year in respect of the trust;

(*b*) notwithstanding section 668 and except as a consequence of the application of paragraph *a*, the amount of the allocated gain shall not be included in computing the beneficiary's income for the beneficiary's taxation year in which the particular year ends;

(*c*) the trust shall disclose to the beneficiary in prescribed form the portion of the deemed gains that are in respect of capital gains realized on dispositions of property that occurred before 28 February 2000, after 27 February 2000 but before 18 October 2000, and after 17 October 2000 and, failing which, the deemed gains are deemed to be in respect of capital gains realized on dispositions of property that occurred before 28 February 2000;

(*d*) where a trust so elects under this paragraph in its fiscal return filed under this Part for the particular year,

i. the portion of the deemed gains that are in respect of capital gains from dispositions of property that occurred before 28 February 2000 is deemed to be equal to that proportion of the deemed gains that the number of days that are in the particular year and before 28 February 2000 is of the number of days that are in the particular year,

ii. the portion of the deemed gains that are in respect of capital gains from dispositions of property that occurred in the particular year and in the period that began on 28 February 2000 and ended on 17 October 2000, is deemed to be equal to that proportion of the deemed gains that the number of days that are in the particular year and in that period is of the number of days that are in the particular year, and

iii. the portion of the deemed gains that are in respect of capital gains from dispositions of property that occurred in the particular year and in the period

that began on 18 October 2000 and ended at the end of the particular year is deemed to be equal to that proportion of the deemed gains that the number of days that are in the particular year and in that period is of the number of days that are in the particular year; and

(*e*) no amount may be claimed by the beneficiary under section 251.3 in respect of the allocated gain.

"**668.6.** Where no amount is designated by a trust under section 668 in respect of its net taxable capital gains for a taxation year that includes 28 February 2000 or 17 October 2000 and the trust has net capital gains or net capital losses from the disposition of property in the year, the following rules apply if the trust so elects under this section in its fiscal return filed under this Part for the year:

(*a*) the portion of the net capital gains or net capital losses that are in respect of capital gains and losses from dispositions of property that occurred before 28 February 2000, is deemed to be equal to that proportion of the net capital gains or net capital losses, as the case may be, that the number of days that are in the year and before 28 February 2000 is of the number of days that are in the year;

(*b*) the portion of the net capital gains or net capital losses that are in respect of capital gains and losses from dispositions of property that occurred in the year and in the period that began on 28 February 2000 and ended on 17 October 2000, is deemed to be equal to that proportion of the net capital gains or net capital losses, as the case may be, that the number of days that are in the year and in that period is of the number of days that are in the year; and

(*c*) the portion of the net capital gains or net capital losses that are in respect of capital gains and losses from dispositions of property that occurred in the year and in the period that began on 18 October 2000 and ended at the end of the year, is deemed to be equal to that proportion of the net capital gains or net capital losses, as the case may be, that the number of days that are in the year and in that period is of the number of days that are in the year.

In the first paragraph,

(*a*) the net capital gains of the trust from dispositions of property in the year is the amount by which the trust's capital gains from dispositions of property in the year exceeds the trust's capital losses from dispositions of property in the year; and

(*b*) the net capital losses of the trust from dispositions of property in the year is the amount by which the trust's capital losses from dispositions of property in the year exceeds the trust's capital gains from dispositions of property in the year.

"**668.7.** Where a taxpayer is deemed by section 668.5 to have realized capital gains from the disposition of capital property in a taxation year of the taxpayer in respect of dispositions of property by a trust of which the taxpayer is a beneficiary, the following rules apply:

(*a*) if the deemed gains are in respect of capital gains of the trust from dispositions of property before 28 February 2000 and the taxation year of the taxpayer includes 27 February 2000, the deemed gains are deemed to be capital gains of the taxpayer from the disposition by the taxpayer of capital property in the year and before 28 February 2000;

(*b*) if the deemed gains are in respect of capital gains of the trust from dispositions of property before 28 February 2000 and the taxation year of the taxpayer began after 27 February 2000 and ended before 18 October 2000, 9/8 of the deemed gains is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of capital property in the year;

(*c*) if the deemed gains are in respect of capital gains of the trust from dispositions of property before 28 February 2000 and the taxation year of the taxpayer began after 27 February 2000 and ended after 17 October 2000, 9/8 of the deemed gains is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of capital property in the year and before 18 October 2000;

(*d*) if the deemed gains are in respect of capital gains of the trust from dispositions of property before 28 February 2000 and the taxation year of the taxpayer began after 17 October 2000, 3/2 of the deemed gains is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of capital property in the year;

(*e*) if the deemed gains are in respect of capital gains of the trust from dispositions of property after 27 February 2000 but before 18 October 2000, and the taxation year of the taxpayer began after 17 October 2000, 4/3 of the deemed gains is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of capital property in the year;

(*f*) if the deemed gains are in respect of capital gains of the trust from dispositions of property after 27 February 2000 but before 18 October 2000, and the taxation year of the taxpayer includes 28 February 2000 and 17 October 2000, the deemed gains are deemed to be capital gains of the taxpayer from the disposition by the taxpayer of capital property in the year and in the period that began after 27 February 2000 and ended before 18 October 2000;

(*g*) if the deemed gains are in respect of capital gains of the trust from dispositions of property after 27 February 2000 but before 17 October 2000 and the taxation year of the taxpayer began after 27 February 2000 and ended before 17 October 2000, the deemed gains are deemed to be capital gains of the taxpayer from the disposition by the taxpayer of capital property in the year; and

(*h*) in any other case, the deemed gains are deemed to be capital gains of the taxpayer from the disposition of capital property by the taxpayer in the year and after 17 October 2000.

"**668.8.** Where an amount is designated under section 668 in respect of a beneficiary by a trust for a particular taxation year of the trust that ends in a taxation year of the beneficiary that includes 28 February 2000 or 17 October 2000 and section 668.5 does not apply in respect of the designated amount, the following rules apply:

(*a*) notwithstanding section 668 and except as a consequence of the application of paragraph *b*, the designated amount shall not be included in computing the beneficiary's income;

(*b*) the beneficiary is deemed to have a capital gain from the disposition by the beneficiary of capital property on the day on which the particular year ends for an amount equal to the amount by which the amount determined by dividing the designated amount by the fraction in section 231 that applies in respect of the trust for the particular year exceeds the amount claimed by the beneficiary, which amount may not be greater than the beneficiary's exempt capital gains balance for the year in respect of the trust; and

(*c*) no amount may be claimed under section 251.3 by the beneficiary in respect of the designated amount."

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

169. (1) Sections 683 and 684 of the said Act are replaced by the following sections:

"**683.** In this chapter,

"capital interest" of a taxpayer in a trust means all rights of the taxpayer as a beneficiary under the trust, and after 31 December 1999 includes a right, other than a right acquired before 1 January 2000 and disposed of before 1 March 2000, to enforce payment of an amount by the trust that arises as a consequence of any such right, but does not include an income interest in the trust;

"eligible offset" at any time of a taxpayer in respect of all or part of the taxpayer's capital interest in a trust is the portion of any debt or obligation that is assumed by the taxpayer and that can reasonably be considered to be applicable to property distributed at that time as consideration for the interest or part of the interest, as the case may be, if the distribution is conditional upon the assumption by the taxpayer of the portion of the debt or obligation;

"income interest" of a taxpayer in a trust means a right, whether immediate or future and whether absolute or contingent, of the taxpayer as a beneficiary under a personal trust to, or to receive, all or any part of the income of the trust

and, after 31 December 1999, includes a right, other than a right acquired before 1 January 2000 and disposed of before 1 March 2000, to enforce payment of an amount by the trust that arises as a consequence of any such right.

"**684.** A taxpayer who disposes in a taxation year of an income interest of the taxpayer in a trust shall, if section 685 does not apply, include in computing the taxpayer's income for the year the amount by which the proceeds of disposition exceed, where that interest includes a right to enforce payment of an amount by the trust, the amount in respect of that right that has been included in computing the taxpayer's income for a taxation year because of section 663.

The disposition referred to in the first paragraph is deemed not to give rise to any capital gain or capital loss, to the taxpayer, and the cost of any property received by the taxpayer as consideration is the fair market value of the property at the time of the disposition."

(2) Subsection 1, where it replaces section 683 of the said Act, applies in respect of interests created or materially altered after 31 January 1987 that were acquired after 10:00 p.m. Eastern Standard Time, 6 February 1987. However, where section 683 of the said Act applies before 1 January 2000, the portion of that section before the definition of "income interest" shall be read as follows:

"**683.** In this chapter,

"capital interest" of a taxpayer under a trust means

i. in the case of a personal trust or a prescribed trust, a right, whether immediate or future and whether absolute or contingent, of the taxpayer as a beneficiary under the trust to, or to receive, all or any part of the capital of the trust; and

ii. in any other case, a right of the taxpayer as a beneficiary under the trust;".

(3) Subsection 1, where it replaces section 684 of the said Act, applies from the taxation year 2000.

170. (1) Section 686 of the said Act is amended by replacing the first and second paragraphs by the following paragraphs:

"**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

(*a*) the adjusted cost base, otherwise determined, to the taxpayer of the property immediately before that time; and

(*b*) the amount by which the cost amount to the taxpayer of the property immediately before that time exceeds the aggregate of all amounts deducted under paragraph *b*.1 of section 257 in computing the adjusted cost base to the taxpayer of the property immediately before the disposition.

The presumption referred to in the first paragraph does not apply where any part of such interest has ever been acquired for consideration and, at the time of disposition, the trust is not resident in Canada."

(2) Subsection 1 applies from the taxation year 2000. However, where section 686 of the said Act applies in respect of transfers made in the taxation years 2000 and 2001, the residence of a transferee trust shall be determined without reference to sections 593 to 597 of the said Act, as they read before 1 January 2002.

171. (1) Section 687 of the said Act is amended

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

"**687.** The cost to a taxpayer of a capital interest in a personal trust or a prescribed trust is deemed to be";

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

"(*b*) in any other case, nil, unless

i. any part of the interest was acquired by the taxpayer from a person who was the beneficiary in respect of the interest immediately before its acquisition by the taxpayer, or

ii. the cost of any part of the interest would be determined not to be nil under sections 242 to 247.1, as they read before 1 January 1993, subparagraph *c* of the second paragraph of section 736 and the third paragraph of that section or paragraph *c* of section 785.1 or 785.2."

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

172. (1) Section 688 of the said Act is amended

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

"**688.** Subject to sections 688.0.0.1, 688.0.0.2 and 691 to 692, where a property of a personal trust or a prescribed trust is distributed, at a particular time, by the trust to a taxpayer who is a beneficiary under the trust and there is a resulting disposition of all or any part of the taxpayer's capital interest in the trust, the following rules apply:";

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

"(*b*) the taxpayer is, subject to section 688.2, deemed to acquire the property at a cost equal to the total of its cost amount to the trust immediately before that time and the specified percentage of the amount by which the adjusted cost base to the taxpayer of the capital interest or part thereof immediately before that time, determined without reference to the first paragraph of section 686, exceeds the cost amount to the taxpayer of the capital interest or part thereof immediately before that time;";

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

"(*c*) the taxpayer is deemed to dispose of all or part, as the case may be, of the taxpayer's capital interest in the trust for proceeds of disposition equal to the amount by which the cost at which the taxpayer would be deemed under paragraph *b* to acquire the property if the specified percentage referred to in that paragraph were 100% exceeds the aggregate of all amounts each of which is an eligible offset at that time of the taxpayer in respect of the capital interest or the part thereof;";

(4) by replacing the portion of paragraph *d* before subparagraph i by the following:

"(*d*) for the purposes of sections 93 to 104, Chapter III of Title III and any regulations made under paragraph *a* of section 130 or under section 130.1, where the property distributed was depreciable property of a prescribed class of the trust and the amount that was the capital cost to the trust of such property exceeds the cost at which, in accordance with sections 688, 689, 691 and 692, the taxpayer is deemed to acquire the property, the following rules apply:";

(5) by inserting the following paragraph after paragraph *d*:

"(*d*.1) the property is deemed to be taxable Canadian property of the taxpayer where

i. the taxpayer is not resident in Canada at that time,

ii. that time is before 2 October 1996, and

iii. the property is deemed under subparagraph *d* of the first paragraph of section 301, any of sections 521, 538 and 554 or subparagraph *c* of the second paragraph of section 614 to be taxable Canadian property of the trust; and";

(6) by replacing the portion of subparagraph ii of paragraph *e* before subparagraph 1 by the following:

"ii. for the purposes of Division III of Chapter II of Title III, Chapter III of Title III and sections 188 and 189, where the intangible capital amount of the

trust in respect of the property exceeds the cost at which the taxpayer is deemed, under this section, to have acquired the property,";

(7) by replacing subparagraph iii of paragraph *e* by the following subparagraph:

"iii. for the purpose of determining after the particular time the amount required by paragraph *b* of section 105 to be included in computing the taxpayer's income in respect of any subsequent disposition of property of the business, there shall be added to the amount otherwise determined under subparagraph ii of subparagraph *a* of the second paragraph of section 107, the proportion of the amount determined under that subparagraph ii in respect of the business of the trust immediately before the particular time that the fair market value, immediately before the particular time, of the intangible capital property is of the fair market value, immediately before the particular time, of all the intangible capital property of the trust in respect of the business.";

(8) by adding the following paragraph:

"For the purposes of subparagraph *b* of the first paragraph, the specified percentage is

(*a*) where the property is capital property other than depreciable property, 100%;

(*b*) where the property is intangible capital property in respect of a business of the trust, 100%; and

(*c*) in any other case, 75%."

(2) Paragraphs 1 to 3 and 8 of subsection 1 apply in respect of distributions made after 31 December 1999. In addition, where section 688 of the said Act applies in respect of distributions made after 1 October 1996, the portion of that section before paragraph *a* shall be read as follows:

"**688.** Subject to section 688.0.0.1, where a property of a personal trust or a prescribed trust is distributed, at a particular time, by the trust 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, the following rules apply:".

(3) Paragraph 5 of subsection 1 applies for the purpose of determining whether, after 1 October 1996, property is taxable Canadian property.

(4) Paragraph 7 of subsection 1 applies to taxation years that end after 27 February 2000. However, where subparagraph iii of paragraph *e* of section 688 of the said Act applies in respect of the time that is immediately before the particular time referred to in that subparagraph and that is in a taxation year of the trust that ends before 28 February 2000, the reference to "under that subparagraph ii" in that subparagraph shall be read as a reference to "under subparagraph 2 of subparagraph i of paragraph *b* of that section".

173. (1) The said Act is amended by inserting the following sections after section 688:

"**688.0.0.1.** Where a trust makes a distribution of a property to a beneficiary under the trust in full or partial satisfaction of the beneficiary's capital interest in the trust and so elects in prescribed form filed with the Minister with the trust's fiscal return for the taxation year in which the distribution occurred, section 688 does not apply to the distribution if

(*a*) the trust is resident in Canada at the time of the distribution;

(*b*) the property is taxable Canadian property; or

(*c*) the property is capital property used in, intangible capital property in respect of, or property included in the inventory of, a business carried on by the trust through an establishment in Canada immediately before the time of the distribution.

"**688.0.0.2.** Where a trust that is not resident in Canada makes a distribution of a property, other than a property described in paragraph *b* or *c* of section 688.0.0.1, to a beneficiary under the trust in full or partial satisfaction of the beneficiary's capital interest in the trust and the beneficiary makes an election under this section in prescribed form filed with the Minister with the beneficiary's fiscal return for the beneficiary's taxation year in which the distribution occurs, the following rules apply:

(*a*) section 688 does not apply to the distribution; and

(*b*) for the purposes of subparagraph *b* of the first paragraph of section 686, the cost amount of the interest to the beneficiary is deemed to be nil."

(2) Subsection 1, where it enacts section 688.0.0.1 of the said Act, applies in respect of distributions made after 1 October 1996. However, in respect of distributions made by a trust before 3 July 2003, the election made under section 688.0.0.1 is deemed to have been made in a timely manner if it is made on or before the trust's filing-due date for the trust's taxation year that includes 3 July 2003.

(3) Subsection 1, where it enacts section 688.0.0.2 of the said Act, applies in respect of distributions made after 31 December 1999. However, in respect of distributions made to a beneficiary before 3 July 2003, the election made under section 688.0.0.2 is deemed to have been made in a timely manner if it is made on or before the beneficiary's filing-due date for the beneficiary's taxation year that includes 3 July 2003.

174. (1) Section 688.0.1 of the said Act is amended by replacing the portion before paragraph *a* by the following:

"**688.0.1.** Where at any time a property is distributed by a personal trust to a taxpayer in circumstances in which section 688 applies and the property would, if the trust had so designated the property under section 274.0.1, be a principal residence within the meaning of that section of the trust for a taxation year, the following rules apply where the trust so elects in its fiscal return under this Part for the taxation year that includes that time:".

(2) Subsection 1 applies in respect of distributions made after 31 December 1999.

175. (1) Section 688.1 of the said Act is amended

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

"**688.1.** Where at a particular time a property of a trust is distributed by the trust to a beneficiary under the trust, there would, if this Part were read without reference to subparagraphs *d* and *e* of the second paragraph of section 248, be a resulting disposition of all or any part of the beneficiary's capital interest in the trust, in this section referred to as the "former interest", and the rules in Title I.2 of Book VI and section 688 do not apply in respect of the distribution, the following rules apply:";

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

"(*b*) the beneficiary is deemed to acquire the property at a cost equal to the proceeds referred to in subparagraph *a*;";

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

"(*c*) subject to subparagraph *e*, the beneficiary's proceeds of disposition of the portion of the former interest disposed of by the beneficiary on the distribution are deemed to be equal to the amount by which the proceeds referred to in subparagraph *a*, other than the portion of the proceeds that is a payment to which subparagraph *d* or *e* of the second paragraph of section 248 applies, exceed the amount determined under the second paragraph;";

(4) by adding the following paragraphs after paragraph *c*:

"(*d*) notwithstanding subparagraphs *a* to *c*, where the trust is not resident in Canada at that time, the property is not described in paragraph *b* or *c* of section 688.0.0.1 and, but for this subparagraph, there would be no income, loss, taxable capital gain or allowable capital loss of a taxpayer in respect of the property by reason of the application of section 467 to the disposition at that time of the property, the following rules apply:

i. the trust is deemed to dispose of the property for proceeds of disposition equal to the cost amount of the property,

ii. the beneficiary is deemed to acquire the property at a cost equal to the fair market value of the property, and

iii. the beneficiary's proceeds of disposition of the portion of the former interest disposed of by the beneficiary on the distribution are deemed to be equal to the amount by which the fair market value of the property exceeds the aggregate of

(1) the portion of the amount of the distribution that is a payment to which subparagraph *d* or *e* of the second paragraph of section 248 applies, and

(2) the aggregate of all amounts each of which is an eligible offset at that time of the taxpayer in respect of the former interest; and

"(*e*) where the trust is a mutual fund trust, the distribution occurs in a taxation year of the trust before its taxation year 2003, the trust has elected under section 688.1.1 for the year and the trust so elects in respect of the distribution in prescribed form filed with the Minister with the trust's fiscal return for the year, the following rules apply:

i. this section shall be read without reference to subparagraph *c* and the second paragraph, and

ii. the beneficiary's proceeds of disposition of the portion of the former interest disposed of by the beneficiary on the distribution are deemed to be equal to the amount determined under subparagraph *a*.";

(5) by adding the following paragraph:

"The amount to which subparagraph *c* of the first paragraph refers is equal to the aggregate of

(*a*) where the property referred to in the first paragraph is not a Canadian resource property or foreign resource property, an amount equal to the amount by which the fair market value of the property at the time referred to in that first paragraph exceeds the aggregate of

i. the cost amount to the trust of the property immediately before that time, and

ii. the portion, if any, of the excess that would be determined under subparagraph *a* if it were read without reference to this subparagraph that is a payment to which subparagraph *d* or *e* of the second paragraph of section 248 applies; and

(*b*) the aggregate of all amounts each of which is an eligible offset at that time of the beneficiary in respect of the former interest."

(2) Subsection 1 applies in respect of distributions made after 31 December 1999. However,

(1) section 688.1 of the said Act does not apply in respect of distributions made before 1 March 2000 in satisfaction of rights described in section 306 of the said Act that were acquired before 1 January 2000; and

(2) in respect of distributions made before 3 July 2003, an election under section 688.1 of the said Act is deemed to have been made in a timely manner if it is made on or before the trust's filing-due date for the taxation year that includes 3 July 2003.

176. (1) The said Act is amended by inserting the following sections after section 688.1:

"**688.1.1.** Where a trust makes one or more distributions of property in a taxation year in circumstances in which section 688.1 applies or, in the case of distributions made after 1 October 1996 and before 1 January 2000, in circumstances in which section 692 applied, the following rules apply:

(*a*) where the trust is resident in Canada at the time of each of those distributions and so elects in prescribed form filed with the Minister with the trust's fiscal return for the year or a preceding taxation year, the income of the trust for the year, determined without reference to paragraph *a* of section 657 shall, for the purposes of that paragraph *a* and section 663, be computed without regard to all of those distributions to persons not resident in Canada, including a partnership other than a Canadian partnership; and

(*b*) where the trust is resident in Canada at the time of each of those distributions and so elects in prescribed form filed with the Minister with the trust's fiscal return for the year or a preceding taxation year, the income of the trust for the year, determined without reference to paragraph *a* of section 657 shall, for the purposes of that paragraph *a* and section 663, be computed without regard to all of those distributions.

"**688.1.2.** An election made under section 688.1.1 by a mutual fund trust is deemed, for the trust's 2003 and subsequent taxation years, not to have been made if

(*a*) the election is made after 20 December 2000 and applies to any taxation year that ends before 1 January 2003; and

(*b*) the proceeds of disposition of a beneficiary's interest in the trust have been determined under subparagraph *e* of the first paragraph of section 688.1."

(2) Subsection 1, where it enacts section 688.1.1 of the said Act, applies in respect of distributions made after 1 October 1996. However, in respect of distributions made by a trust before 3 July 2003, an election under section 688.1.1 is deemed to have been made in a timely manner if it is made on or before the trust's filing-due date for the trust's taxation year that includes 3 July 2003.

177. (1) Section 688.2 of the said Act is amended

(1) by replacing "4/3 of" in subparagraph ii of paragraph *a* by "subject to the second paragraph, twice";

(2) by adding the following paragraph:

"Where the beneficiary's taxation year includes 28 February 2000 or 17 October 2000 or begins after 28 February 2000 and ends before 17 October 2000, the reference to the word "twice" in subparagraph ii of subparagraph *a* of the first paragraph shall be read, with the necessary modifications, as a reference to the fraction that is the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the beneficiary for the year."

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

178. (1) Section 689 of the said Act is repealed.

(2) Subsection 1 applies in respect of distributions made after 31 December 1999.

179. (1) Section 690 of the said Act is amended, in the first paragraph,

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

"**690.** In this Title, notwithstanding the definition of "cost amount" in section 1, the cost amount to a taxpayer at a particular time of a capital interest or part of a capital interest in a trust, other than a trust that is a foreign affiliate of the taxpayer, means, except for the purposes of Chapter X,";

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

"(*a*.1) where that time is immediately before the time of death of the taxpayer and sections 653 to 656.1 deem the trust to dispose of property at the end of the day that includes that time, the amount that would be determined under subparagraph *b* if the taxpayer had died on a day that ended immediately before that time; and".

(2) Paragraph 1 of subsection 1 applies from the taxation year 1993.

(3) Paragraph 2 of subsection 1 applies in respect of deaths that occur after 31 December 1999. In addition, where a day before the taxation year 2000 is determined under subparagraph *a*.4 of the first paragraph of section 653 of the said Act, amended by subsection 1 of section 157, in respect of a trust, subparagraph *a*.1 of the first paragraph of section 690 of the said Act applies in respect of deaths that occur after 23 December 1998.

180. (1) Section 690.2 of the said Act is amended by replacing the portion before paragraph *a* by the following:

"**690.2.** Where at a particular time any property of an employee trust or a trust described in subparagraph *a*.1 of the third paragraph of section 647 is distributed by the trust to a taxpayer who is a beneficiary under the trust as consideration for all or any part of the taxpayer's interest in the trust, the following rules apply:".

(2) Subsection 1 applies from the taxation year 1999.

181. (1) Section 691 of the said Act is replaced by the following section:

"**691.** Notwithstanding section 688, the rules set out in section 688.1 apply at any time to property distributed to a beneficiary by a trust described in subparagraph *a* of the first paragraph and the second paragraph of section 653 where

(*a*) the beneficiary is not

i. in the case of a post-1971 spousal trust, the spouse referred to in subparagraph *a* of the first paragraph of section 653,

ii. in the case of an *alter ego* trust, the taxpayer referred to in subparagraph *a* of the first paragraph of section 653, and

iii. in the case of a joint spousal trust, the taxpayer or spouse referred to in subparagraph *a* of the first paragraph of section 653; and

(*b*) the taxpayer or spouse referred to in any of subparagraphs i to iii of paragraph *a*, as the case may be, is alive on the day of the distribution."

(2) Subsection 1 applies in respect of distributions made after 31 December 1999.

182. (1) Section 691.1 of the said Act is replaced by the following section:

"**691.1.** Notwithstanding section 688, the rules set out in section 688.1 apply where any particular property of a particular personal trust or a particular prescribed trust is distributed by the particular trust to a taxpayer who is a beneficiary under the particular trust and where

(*a*) the distribution was made as consideration for all or any part of the taxpayer's capital interest in the particular trust;

(*b*) section 467 was applicable at a particular time in respect of any property of

i. the particular trust, or

ii. a trust the property of which included a property that, through one or more dispositions to which section 692.8 applied, became a property of the particular trust, and the property was not, at any time after the particular time and before the distribution, the subject of a disposition for proceeds of disposition equal to the fair market value of the property at the time of the disposition;

(*c*) the taxpayer is neither

i. the person, other than a trust described in subparagraph ii of paragraph *b*, who directly or indirectly transferred the particular property, or a property for which the particular property was substituted, to the particular trust, nor

ii. an individual in respect of whom section 454 would be applicable on the transfer of capital property by the person described in subparagraph i; and

(*d*) the person described in subparagraph i of paragraph *c* was in existence at the time the particular property was distributed."

(2) Subsection 1 applies in respect of distributions made after 15 March 2001. In addition, where section 691.1 of the said Act applies in respect of distributions made after 31 December 1999, the portion of that section before paragraph *a* shall be read as follows:

"**691.1.** Notwithstanding section 688, the rules set out in section 688.1 apply where any particular property of a personal trust or a prescribed trust is distributed by the trust 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 and where".

183. (1) Section 692 of the said Act is replaced by the following section:

"**692.** Notwithstanding section 688, the rules set out in section 688.1 apply where a property, other than a property referred to in the second paragraph, is distributed by a trust resident in Canada to a taxpayer not resident in Canada, including a partnership other than a Canadian partnership, as consideration for all or part of the taxpayer's capital interest in the trust.

The property to which the first paragraph refers is

(*a*) a share of the capital stock of a non-resident-owned investment corporation;

(*b*) an immovable situated in Canada;

(*c*) a Canadian resource property;

(*d*) a timber resource property;

(*e*) a capital property used in the carrying on of a business through an establishment in Canada;

(*f*) an intangible capital property in respect of a business carried on through an establishment in Canada;

(*g*) a property described in the inventory of a business carried on through an establishment in Canada; or

(*h*) a prescribed property."

(2) Subsection 1 applies in respect of distributions made after 1 October 1996. However, where section 692 of the said Act applies in respect of distributions made after 1 October 1996 and before 1 January 2000, the first paragraph of that section shall be read as follows:

"**692.** Notwithstanding paragraphs *a* to *c* of section 688, where at any time a property, other than a property referred to in the second paragraph, is distributed by a trust resident in Canada to a taxpayer not resident in Canada, including a partnership other than a Canadian partnership, who is a beneficiary under the trust as consideration for the taxpayer's capital interest in the trust, the following rules apply:

(*a*) the trust is deemed to dispose of the property for proceeds of disposition equal to its fair market value at the time of that distribution;

(*b*) the taxpayer is deemed to acquire the property at a cost equal to that fair market value; and

(*c*) the taxpayer is deemed to dispose of all or part, as the case may be, of the taxpayer's capital interest in the trust, for proceeds of disposition equal to the adjusted cost base to the taxpayer of the interest or part thereof, as the case may be, immediately before that distribution."

184. (1) The said Act is amended by inserting the following section after section 692:

"**692.0.1.** Where, solely by reason of the application of section 692, subparagraphs *a* to *c* of the first paragraph of section 688 do not apply to a distribution in a taxation year of taxable Canadian property by a trust, for the purposes of sections 1025, 1026 and 1026.0.1, the first, second and third paragraphs of section 1038 and any regulations made under those provisions, the aggregate of the taxes payable by the trust under this Part for the year is deemed to be the lesser of

(*a*) the aggregate of the taxes payable by the trust under this Part for the year, determined without reference to the specified tax consequences for the year; and

(*b*) the amount that would be determined under paragraph *a* if section 692 did not apply to each distribution in the year of taxable Canadian property to which the rules set out in section 688 do not apply solely by reason of the application of section 692."

(2) Subsection 1 applies in respect of distributions made after 1 October 1996.

185. (1) The said Act is amended by inserting the following after section 692.4

"CHAPTER X

"QUALIFYING DISPOSITION

"**692.5.** In this chapter, "qualifying disposition" means a disposition of property by a person or partnership, in this section referred to as the "contributor", as a result of a transfer of the property to a particular trust where

(*a*) the disposition does not result in a change in the beneficial ownership of the property;

(*b*) the proceeds of disposition would, but for sections 422 to 424, 454 to 462.0.1 and this chapter, not be determined under any provisions of this Part;

(*c*) if the particular trust is not resident in Canada, the disposition is not

i. by a person resident in Canada or by a partnership, other than a partnership each member of which is a person not resident in Canada, or

ii. a transfer of taxable Canadian property from a person not resident in Canada who was resident in Canada in any of the ten calendar years preceding the transfer;

(*d*) the contributor is not a partnership, if the disposition is part of a series of transactions or events that begin after 17 December 1999 that includes the cessation of the partnership's existence and a subsequent distribution from a personal trust to a former member of the partnership in circumstances to which section 688 applies;

(*e*) unless the contributor is a trust, there is immediately after the disposition no absolute or contingent right of a person or partnership, other than the contributor or, where the property is co-owned, each of the joint contributors, as a beneficiary, determined with reference to section 646.1, under the particular trust;

(*f*) the contributor is not an individual, other than a trust described in any of subparagraphs *a* to *d* of the third paragraph of section 647, if the particular trust is described in any of those subparagraphs;

(*g*) the disposition is not part of a series of transactions or events

i. that begins after 17 December 1999 and that includes the subsequent acquisition, for a particular consideration given to a personal trust, of a capital interest or an income interest in the trust,

ii. that begins after 17 December 1999 and that includes the disposition of all or part of a capital interest or an income interest in a personal trust, other than a disposition solely as a consequence of a distribution from a trust to a person or partnership as consideration for all or part of that interest, or

iii. that begins after 5 June 2000 and that includes the transfer to the particular trust of property as consideration for the acquisition of a capital interest in the particular trust, if the property can reasonably be considered to have been received by the particular trust in order to fund a distribution, other than a distribution that is proceeds of disposition of a capital interest in the particular trust;

(*h*) the disposition is not, and is not part of, a transaction that occurs after 17 December 1999 and that includes the giving to the contributor, for the disposition, of any consideration, other than consideration that is an interest of the contributor as a beneficiary under the particular trust or that is the assumption by the particular trust of debt for which the property can, at the time of the disposition, reasonably be considered to be security;

(*i*) section 454 does not apply to the disposition and would not apply to the disposition if no election had been made under that section and if sections 454 to 462.0.1 were read without reference to section 454.2; and

(*j*) if the contributor is an amateur athlete trust, a cemetery care trust, an employee trust, an *inter vivos* trust deemed by section 851.25 to exist in respect of a congregation that is a constituent part of a religious organization, a segregated fund trust within the meaning of section 851.2, a trust described in paragraph *c*.4 of section 998 or a trust governed by an eligible funeral arrangement, a profit sharing plan, a registered education savings plan or a registered supplementary unemployment benefit plan, the particular trust is the same type of trust.

"**692.6.** For the purposes of paragraph *a* of section 692.5, the following rules apply:

(*a*) except where paragraph *b* applies, where a trust, in this paragraph and in section 692.7 referred to as the "transferor trust", in a period that does not exceed one day, disposes of one or more properties in the period to one or more other trusts, there is deemed to be no resulting change in the beneficial ownership of those properties if

i. the transferor trust receives no consideration for the disposition, and

ii. as a consequence of the disposition, the value of each beneficiary's beneficial ownership at the beginning of the period under the transferor trust in each particular property of the transferor trust, or group of two or more properties of the transferor trust that are identical to each other, is the same as the value of the beneficiary's beneficial ownership at the end of the period under the transferor trust and the other trust or trusts in each particular property, or in property that was immediately before the disposition included in the group of identical properties referred to above; and

(*b*) where a trust, in this paragraph referred to as the "transferor", governed by a registered retirement savings plan or a registered retirement income fund transfers a property to a trust, in this paragraph referred to as the "transferee", governed by a registered retirement savings plan or a registered retirement income fund, the transfer is deemed not to result in a change in the beneficial ownership of the property if the annuitant of the plan or fund that governs the transferor is also the annuitant of the plan or fund that governs the transferee.

"**692.7.** For the purpose of applying paragraph *a* of section 692.6 in respect of a transfer by a transferor trust of property that includes a share and money, the other trust or trusts referred to in that section may receive, in lieu of a transfer of a fractional interest in a share that would otherwise be required, a disproportionate amount of money or interest in the share, the value of which does not exceed the lesser of $200 and the fair market value of the fractional interest.

"**692.8.** Where at a particular time there is a disposition of property by a person or partnership, in this section referred to as the "transferor", to a trust, in this section referred to as the "transferee trust", the following rules apply:

(*a*) the transferor's proceeds of disposition of the property are deemed to be

i. where the transferor so elects by notifying the Minister in writing on or before the transferor's filing-due date for its taxation year that includes the particular time, or at any later time that is acceptable to the Minister, the amount specified in the election that is not less than the cost amount to the transferor of the property immediately before the particular time and not more than the fair market value of the property at that time, and

ii. in any other case, the cost amount to the transferor of the property immediately before the particular time;

(*b*) the transferee trust's cost of the property is deemed to be the amount by which the amount determined under subparagraph *a* in respect of the qualifying disposition exceeds the amount by which the transferor's loss otherwise determined from the qualifying disposition would be reduced by reason of section 638.1, the third and fourth paragraphs of section 686 or sections 741 to 744.2, if the amount determined under subparagraph *a* were equal to the fair market value of the property at the particular time;

(*c*) for the purposes of sections 93 to 104, Chapter III of Title III and any regulations made under paragraph *a* of section 130 or under section 130.1, if the property was depreciable property of a prescribed class of the transferor and its capital cost to the transferor exceeds the cost at which the transferee trust is deemed by this section to have acquired the property, the following rules apply:

i. the capital cost of the property to the transferee trust is deemed to be the amount that was the capital cost of the property to the transferor, and

ii. the excess is deemed to have been allowed as depreciation to the transferee trust in respect of the property for taxation years that ended before the particular time;

(*d*) if the property was intangible capital property of the transferor in respect of a business of the transferor, the following rules apply:

i. for the purposes of Division III of Chapter II of Title III, Chapter III of Title III and sections 188 and 189, where the intangible capital amount of the transferor in respect of the property exceeds the cost at which the transferee trust is deemed by this section to have acquired the property, the following rules apply:

(1) the intangible capital amount of the transferee trust in respect of the property is deemed to be the amount that was the intangible capital amount of the transferor in respect of the property, and

(2) 3/4 of the excess is deemed to have been deducted under paragraph *b* of section 130 by the transferee trust in respect of the property in computing its income for taxation years that ended before the particular time and after the adjustment time, within the meaning of section 107.1, of the transferee trust in respect of the business, and

ii. for the purpose of determining after the particular time the amount required by paragraph *b* of section 105 to be included in computing the transferee trust's income in respect of any subsequent disposition of the property of the business, there shall be added to the amount otherwise determined under subparagraph ii of subparagraph *a* of the second paragraph of section 107, the proportion of the amount determined under that subparagraph ii in respect of the business of the transferor immediately before the particular time that the fair market value of the intangible capital property immediately before the particular time is of the fair market value immediately before the particular time of all intangible capital property of the transferor in respect of the business;

(*e*) if the property was deemed to be taxable Canadian property of the transferor by this subparagraph, subparagraph *d* of the first paragraph of section 301, any of sections 521, 538 and 554, subparagraph *c* of the second paragraph of section 614 or subparagraph *d*.1 of the first paragraph of

section 688, the property is deemed to be taxable Canadian property of the transferee trust;

(*f*) where the transferor is a segregated fund trust, within the meaning of section 851.2, the following rules apply:

i. section 851.14 does not apply in respect of a disposition of interest in the transferor that occurs in connection with the qualifying disposition, and

ii. for the purpose of computing the amount referred to in section 851.14 in respect of a subsequent disposition of an interest in the transferee trust where the interest is deemed to exist in connection with a life insurance policy, the acquisition fee, within the meaning of section 851.17, in respect of the policy shall be determined as if each amount referred to in sections 851.17 and 851.18 in respect of the policyholder's interest in the transferor had been determined in respect of the policyholder's interest in the transferee trust;

(*g*) if the transferor is a trust to which property was transferred by an individual, other than a trust, where section 454 applied in respect of the property so transferred and it is reasonable to consider that the property was so transferred in anticipation of the individual ceasing to be resident in Canada, for the application of subparagraph *a*.3 of the first paragraph of section 653 and this subparagraph to a disposition by the transferee trust after the particular time, the transferee trust is deemed after the particular time to be a trust to which the individual had transferred property in anticipation of the individual ceasing to reside in Canada and in circumstances to which section 454 applied;

(*h*) if the transferor is a trust, other than a personal trust or a trust prescribed for the purposes of section 688, the transferee trust is deemed to be neither a personal trust nor a trust prescribed for the purposes of section 688;

(*i*) if the transferor is a trust and a taxpayer disposes of all or part of a capital interest in the transferor because of the qualifying disposition and, as a consequence, acquires a capital interest or part of it in the transferee trust, the following rules apply:

i. the taxpayer is deemed to dispose of the capital interest or part of it in the transferor for proceeds equal to the cost amount to the taxpayer of that interest or part of it immediately before the particular time, and

ii. the taxpayer is deemed to acquire the capital interest or part of it in the transferee trust at a cost equal to the amount by which the cost amount referred to in subparagraph i exceeds the amount by which the taxpayer's loss otherwise determined from the disposition referred to in subparagraph i would be reduced by reason of the third and fourth paragraphs of section 686, if the proceeds under that subparagraph were equal to the fair market value of the capital interest or part of it in the transferor immediately before the particular time;

(*j*) where the transferor is a trust, a taxpayer's beneficial ownership in the property ceases to be derived from the taxpayer's capital interest in the transferor because of the qualifying disposition and no part of the taxpayer's capital interest in the transferor was disposed of because of the qualifying disposition, there shall, immediately after the particular time, be added to the cost otherwise determined of the taxpayer's capital interest in the transferee trust, the amount determined by the formula

$$A \times [(B - C) / B] - D;$$

(*k*) where subparagraph *j* applies to the qualifying disposition in respect of a taxpayer, the amount that would be determined under that subparagraph in respect of the qualifying disposition if the amount determined under subparagraph *d* of the second paragraph were nil shall, immediately after the particular time, be deducted in computing the cost otherwise determined of the taxpayer's capital interest in the transferor;

(*l*) where subparagraphs *i* and *j* do not apply in respect of the qualifying disposition, the transferor is deemed to acquire the capital interest or part of it in the transferee trust that is acquired as a consequence of the qualifying disposition

i. where the transferee trust is a personal trust, at a cost equal to nil, and

ii. in any other case, at a cost equal to the excess referred to in subparagraph *b* in respect of the qualifying disposition; and

(*m*) for the purposes of section 684, where the transferor is a trust and a taxpayer disposes of all or part of an income interest in the transferor because of the qualifying disposition and, as a consequence, acquires an income interest or a part of an income interest in the transferee trust, the taxpayer is deemed not to dispose of any part of the income interest in the transferor at the particular time.

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

(*a*) A is the cost amount to the taxpayer of the taxpayer's capital interest in the transferor immediately before the particular time;

(*b*) B is the fair market value immediately before the particular time of the taxpayer's capital interest in the transferor;

(*c*) C is the fair market value at the particular time of the taxpayer's capital interest in the transferor, determined as if the only property disposed of at the particular time were the particular property; and

(*d*) D is the lesser of

i. the amount by which the cost amount to the taxpayer of the taxpayer's capital interest in the transferor immediately before the particular time exceeds the fair market value of the taxpayer's capital interest in the transferor immediately before the particular time, and

ii. the maximum amount by which the taxpayer's loss from a disposition of a capital interest otherwise determined would be reduced by reason of the third and fourth paragraphs of section 686 if the taxpayer's capital interest in the transferor had been disposed of immediately before the particular time.

"**692.9.** Where a capital interest in a trust is held by a beneficiary at any time, the interest is vested indefeasibly at that time, the trust is not described in any of subparagraphs *a* to *d* of the third paragraph of section 647 and interests under the trust are not ordinarily disposed of for consideration that reflects the fair market value of the net assets of the trust, the fair market value of the interest at that time is deemed to be not less than the amount determined by the formula

(A – B) × (C / D).

In the formula provided for in the first paragraph,

(*a*) A is the total fair market value of all properties of the trust at the time referred to in the first paragraph;

(*b*) B is the aggregate of all amounts each of which is the amount of a debt owing by the trust at the time referred to in the first paragraph or the amount of any other obligation of the trust to pay any amount that is outstanding at that time;

(*c*) C is the fair market value at the time referred to in the first paragraph of the interest referred to in the first paragraph, determined without reference to this section; and

(*d*) D is the total fair market value at the time referred to in the first paragraph of all interests as beneficiaries under the trust, determined without reference to this section."

(2) Subsection 1, where it enacts section 692.5 of the said Act, applies

(1) in respect of dispositions that occur after 23 December 1998; and

(2) in relation to the 1993 and subsequent taxation years, in respect of transfers of capital property that occur before 24 December 1998; however, where section 692.5 of the said Act applies in respect of such transfers, it shall be read as follows:

"**692.5.** In this chapter, "qualifying disposition" means a transfer of property to a particular trust that is not a disposition of the property for the

purposes of Title IV by reason of subparagraph *d* of the second paragraph of section 248, except where

(*a*) if the transfer is from another trust to the particular trust, each trust can reasonably be considered to act as agent or mandatary for the same beneficiary or beneficiaries in respect of the property transferred, or the transferee trust can reasonably be considered to act as agent or mandatary for the transferor trust in respect of the property transferred; and

(*b*) in any other case, it is reasonable to consider that the particular trust acts as agent or mandatary in respect of the property transferred."

(3) Subsection 1, where it enacts sections 692.6, 692.7 and 692.9 of the said Act, applies in respect of dispositions that occur after 23 December 1998.

(4) Subsection 1, where it enacts section 692.8 of the said Act, applies

(1) in respect of dispositions that occur after 23 December 1998; however, where subparagraph ii of subparagraph *d* of the first paragraph of that section applies in respect of dispositions that occur in taxation years that end before 28 February 2000, the reference to "paragraph *b* of section 105" in that subparagraph ii shall be read as a reference to "subparagraph ii of paragraph *a* of section 105 and paragraph *b* of that section"; and

(2) in relation to the 1993 and subsequent taxation years, in respect of transfers of capital property that occur before 24 December 1998; however, where section 692.8 of the said Act applies in respect of such transfers

(*a*) that section 692.8 shall be read without reference to subparagraphs *a*, *f* and *g* of the first paragraph,

(*b*) subparagraph *b* of the first paragraph of that section 692.8 shall be read as follows:

"(*b*) the transferee trust's cost of the property is deemed to be the cost amount to the transferor of the property immediately before the particular time;",

(*c*) that section 692.8 shall be read as if each amount referred to in subparagraph 2 of subparagraph ii of subparagraph *i* of the first paragraph and subparagraph *d* of the second paragraph were nil, and

(*d*) subparagraph ii of subparagraph *l* of the first paragraph of that section 692.8 shall be read as follows:

"ii. in any other case, at a cost equal to the amount referred to in subparagraph *b* in respect of the qualifying disposition; and".

186. (1) Section 710 of the said Act is amended by replacing the portion of paragraph *c* before subparagraph i by the following:

"(*c*) the aggregate of all amounts each of which is the fair market value, as certified by the Minister of the Environment, of a gift the object of which is a property described in section 710.0.1, other than a gift the fair market value of which is included in the aggregate described in paragraph *d*, made by the corporation in the year or in any of the five preceding taxation years to".

(2) Subsection 1 applies in respect of gifts made after 27 February 2000.

187. (1) Section 710.0.2 of the said Act is replaced by the following section:

"**710.0.2.** For the purpose of applying subparagraph ii of paragraph *c* of section 422 and sections 710 to 716.0.3 in respect of a gift made by a taxpayer and referred to in paragraph *c* of section 710, the fair market value of the gift at the time the gift was made or, for the purposes of section 716, the fair market value otherwise determined of the gift at that time and, subject to section 716, the taxpayer's proceeds of disposition of the property that is the subject of the gift, are deemed to be the amount determined by the Minister of the Environment to be

(*a*) where the subject of the gift is land, the fair market value of the gift; or

(*b*) where the subject of the gift is a servitude referred to in paragraph *b* of section 710.0.1, the greater of its fair market value otherwise determined and the amount by which the fair market value of the land encumbered by the servitude has been reduced as a result of the making of the gift of the servitude."

(2) Subsection 1 applies in respect of gifts made after 12 May 1994. However,

(1) where section 710.0.2 of the said Act applies to taxation years that end before 1 January 1998, it shall be read as follows:

"**710.0.2.** For the purpose of applying subparagraph ii of paragraph *c* of section 422 and this Title in respect of a gift referred to in paragraph *k* or *l* of section 710 that is made by a taxpayer and that is a servitude referred to in paragraph *b* of section 710.0.1, the fair market value of the gift at the time the gift was made or, for the purposes of section 716, the fair market value otherwise determined of the gift at that time and, subject to section 716, the taxpayer's proceeds of disposition of the property that is the subject of the gift, are deemed to be equal to the greater of

(*a*) the fair market value otherwise determined of the gift; and

(*b*) the amount by which the fair market value of the land encumbered by the servitude has been reduced as a result of the making of the gift of the servitude."; and

(2) where section 710.0.2 of the said Act applies in respect of gifts made before 28 February 2000 in taxation years that end after 31 December 1997, it shall be read as follows:

"**710.0.2.** For the purpose of applying subparagraph ii of paragraph *c* of section 422 and this Title in respect of a gift referred to in paragraph *c* of section 710 that is made by a taxpayer and that is a servitude referred to in paragraph *b* of section 710.0.1, the fair market value of the gift at the time the gift was made or, for the purposes of section 716, the fair market value otherwise determined of the gift at that time and, subject to section 716, the taxpayer's proceeds of disposition of the property that is the subject of the gift, are deemed to be equal to the greater of

(*a*) the fair market value otherwise determined of the gift; and

(*b*) the amount by which the fair market value of the land encumbered by the servitude has been reduced as a result of the making of the gift of the servitude."

188. (1) Section 710.2.1 of the said Act is replaced by the following section:

"**710.2.1.** For the purposes of subparagraph ii of paragraph *c* of section 422 and sections 710 to 716.0.3,where at any time the Canadian Cultural Export Review Board, the Commission des biens culturels du Québec or the Minister of the Environment, as the case may be, determines or redetermines an amount to be the fair market value of a property that is the subject of a gift described in paragraph *a* of section 710 made by a taxpayer within the two-year period that begins at that time, the last amount so determined or redetermined within the period is deemed to be the fair market value of the property at the time the gift was made and, subject to section 716, to be the taxpayer's proceeds of disposition of the property."

(2) Subsection 1 applies in respect of gifts made after 27 February 2000.

189. (1) The said Act is amended by inserting the following sections after section 710.2.1:

"**710.2.2.** A corporation may request, by notice in writing to the Minister of the Environment, a determination of the fair market value of a property it disposes of or proposes to dispose of and that would, if the disposition were made and the certificates described in section 712.0.2 were issued by the Minister of the Environment in respect of the property, be a gift described in paragraph *c* of section 710.

"**710.2.3.** The Minister of the Environment shall with all due dispatch make a determination in accordance with section 710.0.2 of the fair market value of the property that is the subject of the request referred to in section 710.2.2 and give notice of the determination in writing to the corporation that has disposed of, or that proposes to dispose of, the property.

However, no such determination shall be made if the request is received by the Minister of the Environment after three years after the end of the corporation's taxation year in which the disposition occurred.

"**710.2.4.** Where the Minister of the Environment has, in accordance with section 710.2.3, notified a corporation of the amount determined to be the fair market value of a property it has disposed of or proposes to dispose of, the following rules apply:

(*a*) on receipt of a written request made by the corporation on or before the day that is 90 days after the day that the corporation was so notified, the Minister of the Environment shall with all due dispatch confirm or redetermine the fair market value;

(*b*) the Minister of the Environment may, on that Minister's own initiative, at any time redetermine the fair market value;

(*c*) in the cases referred to in paragraphs *a* and *b*, the Minister of the Environment shall notify the corporation in writing of that Minister's confirmation or redetermination; and

(*d*) any such redetermination is deemed to replace all preceding determinations and redeterminations of the fair market value of the property from the time at which the first such determination was made.

"**710.2.5.** Where the Minister of the Environment determines in accordance with section 710.2.3 the fair market value of a property, or redetermines that fair market value in accordance with section 710.2.4, and the property has been disposed of to a qualified donee described in paragraph *c* of section 710, the Minister shall issue to the person who made the disposition a certificate that states the fair market value of the property so determined or redetermined.

Where the Minister of the Environment has issued more than one certificate in respect of the same property, the last certificate is deemed to replace all preceding certificates from the time at which the first certificate was issued."

(2) Subsection 1 applies in respect of gifts made, or proposed to be made, after 27 February 2000.

190. (1) Section 710.3 of the said Act is amended by adding the following paragraph after paragraph *b*:

"(*c*) to a certificate issued under section 710.2.5 or to a decision of a court resulting from an appeal under section 93.1.15.2 of the Act respecting the Ministère du Revenu (chapter M-31)."

(2) Subsection 1 applies in respect of gifts made after 27 February 2000.

191. (1) Section 712 of the said Act is replaced by the following section:

"**712.** No corporation may deduct, for a taxation year, an amount under section 710, unless the making of the gift is proven by

(*a*) a receipt for the gift filed with the Minister that meets the prescribed requirement and contains in a clear and unalterable manner the prescribed statement and the prescribed information; and

(*b*) in the case of a gift described in subparagraph i of paragraph *d* of section 710, the certificate issued under subsection 1 of section 33 of the Cultural Property Export and Import Act (Revised Statutes of Canada, 1985, chapter C-51)."

(2) Subsection 1 applies in respect of gifts made after 20 December 2000.

192. (1) Section 712.0.2 of the said Act is replaced by the following section:

"**712.0.2.** No corporation may deduct, for a taxation year, an amount under paragraph *c* of section 710 unless it files with the Minister, along with the fiscal return it is required to file under section 1000 for the year, the following certificates issued by the Minister of the Environment:

(*a*) the certificate stating that the land referred to in paragraph *a* of section 710.0.1 or the land encumbered with a servitude referred to in paragraph *b* of that section, as the case may be, has undeniable ecological value and, where such is the case, that the mission in Québec of a charity referred to in subparagraph i of paragraph *c* of section 710 consists mainly, at the time of the gift, in the conservation of the ecological heritage; and

(*b*) the certificate relating to the fair market value of the gift referred to in that paragraph *c*."

(2) Subsection 1 applies in respect of gifts made after 27 February 2000.

193. (1) Section 716 of the said Act is amended by inserting "otherwise determined" after "greater than the fair market value".

(2) Subsection 1 applies in respect of gifts made after 12 May 1994.

194. (1) Section 725.2 of the said Act is amended

(1) by replacing "1/4" in the portion before paragraph *a* by "1/2";

(2) by replacing subparagraphs i and ii of paragraph *a* by the following subparagraphs:

"i. the amount payable by the individual to acquire the security under the agreement is not less than the amount by which the fair market value of the security at the time the agreement was made exceeds the amount paid by the individual to acquire the right to acquire the security, and

"ii. immediately after the agreement was made, the individual was dealing at arm's length with the following persons:

(1) the particular qualifying person,

(2) each other qualifying person that, immediately after the agreement was made, was an employer of the individual and was not dealing at arm's length with the particular qualifying person, and

(3) the qualifying person of which the individual had, under the agreement, a right to acquire a security;";

(3) by replacing subparagraphs i and ii of paragraph *b* by the following subparagraphs:

"i. the amount payable by the individual to acquire the security under the agreement is not less than the amount that was included, in respect of the security, in the amount determined under the second paragraph of section 49.4 in respect of the most recent of those dispositions,

"ii. immediately after the agreement the rights under which were the subject of the first of those dispositions, in this subparagraph referred to as the "original agreement", was made the individual was dealing at arm's length with

(1) the qualifying person that made the original agreement,

(2) each other qualifying person that, immediately after the agreement was made, was an employer of the individual and was not dealing at arm's length with the qualifying person that made the original agreement, and

(3) the qualifying person of which the individual had, under the original agreement, a right to acquire a security,";

(4) by adding the following subparagraphs after subparagraph ii of paragraph *b*:

"iii. the amount that was included, in respect of each particular security that the individual had a right to acquire under the original agreement, in the

amount determined under the third paragraph of section 49.4 in respect of the first of those dispositions was not less than the amount by which the fair market value of the particular security at the time the original agreement was made exceeded the amount paid by the individual to acquire the right to acquire the security, and

"iv. for the purpose of determining if the condition in subparagraph *b* of the first paragraph of section 49.4 was satisfied in respect of each of the particular dispositions following the first of those dispositions, the amount that was included, in respect of each particular security that could be acquired under the agreement the rights under which were the subject of the particular disposition, in the amount determined under the third paragraph of section 49.4 in respect of the particular disposition, was not less than the amount that was included, in respect of the particular security, in the amount determined under the second paragraph of that section in respect of the last of those dispositions preceding the particular disposition; and".

(2) Paragraph 1 of subsection 1 applies from the taxation year 2000. However, where the portion of section 725.2 of the said Act before paragraph *a* applies to the taxation year 2000, the reference to the fraction "1/2" in that portion shall be read as a reference to

(1) the fraction "1/4", if the transaction, event or circumstance as a result of which a benefit is deemed by section 49 of the said Act, amended by subsection 1 of section 16, to have been received by an individual occurred before 28 February 2000; and

(2) the fraction "1/3", if the transaction, event or circumstance as a result of which a benefit is deemed by section 49 of the said Act, amended by subsection 1 of section 16, to have been received by an individual occurred after 27 February 2000 and before 18 October 2000.

(3) Paragraphs 2 to 4 of subsection 1 apply from the taxation year 1998.

195. (1) Section 725.2.1 of the said Act is replaced by the following section:

"**725.2.1.** For the purposes of section 725.2, the following rules apply:

(*a*) the amount payable by an individual to acquire a security under an agreement referred to in section 48 shall be determined without reference to any change in the value of a currency of a country other than Canada, relative to Canadian currency, occurring after the agreement was made;

(*b*) the fair market value of a security at the time an agreement in respect of the security was made shall be determined on the assumption that all specified events associated with the security referred to in the second paragraph that

occurred after the agreement was made and before the sale or issue of the security or the disposition of the taxpayer's rights under the agreement in respect of the security, as the case may be, occurred immediately before the agreement was made; and

(*c*) for the purpose of determining the amount that was included, in respect of a security that a qualifying person has agreed to sell or issue to an individual, in the amount determined under the second paragraph of section 49.4 for the purpose of determining if the condition in subparagraph *b* of the first paragraph of that section was satisfied in respect of a particular disposition, all specified events associated with the security referred to in the second paragraph that occurred after the particular disposition and before the sale or issue of the security or the individual's subsequent disposition of rights under the agreement in respect of the security, as the case may be, are deemed to have occurred immediately before the particular disposition.

For the purposes of the first paragraph, the following events are specified events associated with a security:

(*a*) where the security is a share of the capital stock of a corporation, any subdivision or consolidation of shares of the capital stock of the corporation, any reorganization of share capital of the corporation and any stock dividend of the corporation; and

(*b*) where the security is a unit of a mutual fund trust, any subdivision or consolidation of the units of the trust, and an issuance of units of the trust as payment, or in satisfaction of a person's right to enforce payment, out of the trust's income, determined before the application of paragraph *a* of section 657 and section 657.1, or out of the trust's capital gains."

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

196. (1) The said Act is amended by inserting the following sections after section 725.2.1:

"**725.2.2.** Subject to section 725.2.3, an individual may deduct, in computing the individual's taxable income for a taxation year, where the individual disposes of a security acquired in the year by the individual under an agreement referred to in section 48 by making a gift of the security to a qualified donee, other than a private foundation, an amount in respect of the disposition of the security equal to 1/4 of the lesser of the benefit deemed by section 49 to have been received by the individual in the year in respect of the acquisition of the security and the amount that would have been that benefit had the value of the security at the time of its acquisition by the individual been equal to the value of the security at the time of the disposition if

(*a*) the security is a security described in paragraph *a* of section 231.1;

(*b*) the individual acquired the security after 14 March 2000 and before 1 January 2002;

(*c*) the gift is made in the year and on or before the day that is 30 days after the day on which the individual acquired the security; and

(*d*) the individual is entitled to a deduction under section 725.2 in respect of the acquisition of the security.

"**725.2.3.** Where an individual, in exercising a right to acquire a security that a qualifying person has agreed to sell or issue to the individual under an agreement referred to in section 48, directs a broker or dealer appointed by the qualifying person, or by another qualifying person that does not deal at arm's length with the qualifying person, to immediately dispose of the security and pay all or a portion of the proceeds of disposition of the security to a qualified donee, the following rules apply:

(*a*) if the payment is a gift, the individual is deemed, for the purposes of section 725.2.2, to have disposed of the security to the qualified donee at the time the payment is made; and

(*b*) the amount deductible under section 725.2.2 by the individual in respect of the disposition of the security is the amount determined by the formula

A × B/C.

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

(*a*) A is the amount that would be deductible under section 725.2.2 in respect of the disposition of the security if this section were read without reference to subparagraph *b* of the first paragraph;

(*b*) B is the amount of the payment; and

(*c*) C is the amount of the proceeds of disposition of the security."

(2) Subsection 1 applies from the taxation year 2000. However, where the portion of section 725.2.2 of the said Act before paragraph *a* applies to the taxation year 2000, the reference to the fraction "1/4" in that portion shall be read as a reference to the fraction "1/3" if the transaction, circumstance or event as a result of which a benefit is deemed by section 49 of the said Act, amended by subsection 1 of section 16, to have been received by an individual occurred after 14 March 2000 and before 18 October 2000.

197. (1) Section 725.3 of the said Act is amended by replacing "1/4" in the portion before paragraph *a* by "1/2".

(2) Subsection 1 applies in respect of dispositions or exchanges that occur after 27 February 2000. However, where the portion of section 725.3 of the said Act before paragraph *a* applies in respect of dispositions or exchanges that occur after that date and before 18 October 2000, the reference to the fraction "1/2" in that portion shall be read as a reference to the fraction "1/3".

198. (1) Section 725.4 of the said Act is amended by replacing "1/4" by "1/2".

(2) Subsection 1 applies in respect of dispositions or exchanges that occur after 27 February 2000. However, where section 725.4 of the said Act applies in respect of dispositions or exchanges that occur after that date and before 18 October 2000, the reference to the fraction "1/2" in section 725.4 shall be read as a reference to the fraction "1/3".

199. (1) Section 725.5 of the said Act is amended by replacing "1/4" by "1/2".

(2) Subsection 1 applies in respect of dispositions or exchanges that occur after 27 February 2000. However, where section 725.5 of the said Act applies in respect of dispositions or exchanges that occur after that date and before 18 October 2000, the reference to the fraction "1/2" in section 725.5 shall be read as a reference to the fraction "1/3".

200. (1) Section 726.7 of the said Act is amended

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

"(*a*) the amount determined by the formula

[$250,000 – (A + B + C + D)] × E;";

(2) by adding the following paragraphs:

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

(*a*) A is the aggregate of all amounts each of which is an amount deducted under this Title in computing the individual's taxable income for a preceding taxation year that ended before 1 January 1988 or began after 17 October 2000;

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

i. 3/4 of an amount deducted under this Title in computing the individual's taxable income for a preceding taxation year that ended after 31 December 1987 but before 1 January 1990, other than amounts deducted under this Title for a taxation year in respect of an amount that was included in computing an individual's income for that year by reason of subparagraph ii of paragraph *a* of section 105, as that subparagraph applied for a taxation year that ended before 28 February 2000, or

ii. 3/4 of an amount deducted under this Title in computing the individual's taxable income for a preceding taxation year that began after 28 February 2000 and ended before 17 October 2000;

(*c*) C is 2/3 of the aggregate of all amounts each of which is an amount deducted under this Title in computing the individual's taxable income

i. for a preceding taxation year that ended after 31 December 1989 but before 28 February 2000, or

ii. in respect of an amount that was included in computing the individual's income for a preceding taxation year that began after 31 December 1987 and ended before 1 January 1990, by reason of subparagraph ii of paragraph *a* of section 105, as that subparagraph applied for a taxation year that ended before 28 February 2000;

(*d*) D is the aggregate of all amounts each of which is, in relation to an amount deducted under this Title in computing the individual's taxable income for a preceding taxation year that includes 28 February 2000 or 17 October 2000, the product obtained when that amount is multiplied by the reciprocal of the fraction determined in respect of the individual under subparagraph i of subparagraph *e* for that preceding taxation year; and

(*e*) E is

i. in the case of a taxation year that includes 28 February 2000 or 17 October 2000 or that begins after 28 February 2000 and ends before 17 October 2000, the fraction determined by the formula

[2 × (F + G)] / H, and

ii. in any other case, 1.

In the formula provided for in subparagraph i of subparagraph *e* of the second paragraph,

(*a*) F is the amount deemed by section 105.3 to be a taxable capital gain of the individual for the year;

(*b*) G is the amount by which the amount determined in respect of the individual for the year under paragraph *b* of section 28 exceeds the amount deemed by section 105.3 to be a taxable capital gain of the individual for the year; and

(*c*) H is the aggregate of

i. the amount deemed by section 105.3 to be a taxable capital gain of the individual for the year multiplied by

(1) where that amount is the amount referred to in subparagraph *a* of the first paragraph of section 105.3, the reciprocal of the fraction obtained by multiplying 3/4 by the fraction in section 105.2 that applies to the individual for the year,

(2) where that amount is the amount referred to in subparagraph *b* of the first paragraph of section 105.3 and the year does not end after 27 February 2000 and before 18 October 2000, 2, and

(3) where that amount is the amount referred to in subparagraph *b* of the first paragraph of section 105.3 and the year ends after 27 February 2000 and before 18 October 2000, 3/2, and

ii. the excess referred to in subparagraph *b* multiplied by the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the individual for the year."

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

201. (1) Section 726.7.1 of the said Act is amended

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

"(*a*) the amount determined by the formula provided for in subparagraph *a* of the first paragraph of section 726.7 in respect of the individual for the year;";

(2) by replacing "paragraph *d* of section 726.7" in paragraph *d* by "subparagraph *d* of the first paragraph of section 726.7".

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

202. (1) Sections 726.9 and 726.9.1 of the said Act are replaced by the following sections:

"**726.9.** Notwithstanding sections 726.7 and 726.7.1, the total amount that may be deducted under this Title in computing an individual's taxable income for a taxation year shall not exceed the amount determined by the formula provided for in subparagraph *a* of the first paragraph of section 726.7 in respect of the individual for the year.

"**726.9.1.** For the purposes of subparagraph i of subparagraph *b* of the second paragraph of section 726.7 and subparagraph ii of subparagraph *c* of that paragraph, amounts deducted under this Title in computing an individual's taxable income for a taxation year that ended before 1 January 1990 are deemed to have first been deducted in respect of amounts that were included in computing the individual's income under this Part for the year because of subparagraph ii of paragraph *a* of section 105, as it applied to a taxation year

that ended before 28 February 2000, before being deducted in respect of any other amounts that were included in computing the individual's income under this Part for the year."

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

203. Section 726.9.2 of the said Act is amended

(1) by replacing "sections 47.18 to 58 and" in the portion of subparagraph *a* of the first paragraph before subparagraph i by "Division VI of Chapter II of Title II of Book III, sections";

(2) by replacing "sections 47.18 to 58 or" and "those sections" by "Division VI of Chapter II of Title II of Book III or sections" and "that division and those sections", respectively, in the following provisions:

— subparagraph 1 of subparagraph i of subparagraph *a* of the first paragraph;

— subparagraph 2 of subparagraph ii of subparagraph *a* of the first paragraph;

— subparagraph *a* of the second paragraph.

204. (1) Section 726.19 of the said Act is amended

(1) by replacing "section 656.4," in the portion before paragraph *a* by "section 656.4, an *alter ego* trust or a joint spousal trust,";

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

"(*c*) subject to the second paragraph, the amount by which the amount determined by the formula in subparagraph *a* of the first paragraph of section 726.7 in respect of the spouse for the taxation year in which that spouse died exceeds the amount deducted under this Title for that taxation year by that spouse.";

(3) by adding the following paragraph:

"Where the trust's taxation year includes 28 February 2000 or 17 October 2000 or begins after 28 February 2000 and ends before 17 October 2000, the amount determined under subparagraph *c* of the first paragraph is deemed to be equal to the product obtained when the amount that would be determined under that subparagraph but for this paragraph is multiplied by the quotient obtained when the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the trust for the year is divided by the fraction provided for the purposes of section 231 in respect of the spouse for the taxation year in which that spouse died."

(2) Paragraph 1 of subsection 1 applies from the taxation year 2000.

(3) Paragraphs 2 and 3 of subsection 1 apply to taxation years that end after 27 February 2000.

205. (1) Section 726.20.1 of the said Act, amended by section 55 of chapter 40 of the statutes of 2002, is again amended

(1) by replacing the portion of paragraph *a* of the definition of "eligible taxable capital gain amount" before subparagraph i by the following:

"(*a*) subject to the third paragraph, the amount by which the amount determined under the second paragraph is exceeded by 1/2 of";

(2) by replacing paragraph *c* of the definition of "eligible taxable capital gain amount" by the following paragraph:

"(*c*) nil, where the particular property is property described in section 726.7 or 726.7.1 and the amount by which the amount determined in respect of the individual for the year by the formula provided for in subparagraph *a* of the first paragraph of section 726.7 exceeds the amount, if any, deducted under Title VI.5 by the individual in computing the individual's taxable income for the year is not nil;";

(3) by adding the following paragraphs:

"The amount to which the portion of paragraph *a* of the definition of "eligible taxable capital gain amount" in the first paragraph before subparagraph i refers is the aggregate of

(*a*) any amount that can reasonably be considered as deducted by the individual under this Title in respect of the disposition of the particular property in computing the individual's taxable income for a preceding taxation year that began after 17 October 2000;

(*b*) any amount that is the quotient obtained when the amount that can reasonably be considered as deducted by the individual under this Title in respect of the disposition of the particular property in computing the individual's taxable income for a preceding taxation year that includes 28 February 2000 or 17 October 2000, or that began after 28 February 2000 and ended before 17 October 2000, is divided by twice the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the individual for that preceding taxation year; and

(*c*) 2/3 of any amount that can reasonably be considered as deducted by the individual under this Title in respect of the disposition of the particular property in computing the individual's taxable income for a preceding taxation year that ended before 28 February 2000.

Where the individual's taxation year includes 28 February 2000 or 17 October 2000, or begins after 28 February 2000 and ends before 17 October 2000, the following rules apply:

(*a*) the reference to the fraction "1/2" in the portion of paragraph *a* of the definition of "eligible taxable capital gain amount" in the first paragraph before subparagraph i shall be read as a reference to the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the individual for the year;

(*b*) the reference to the word "twice" in subparagraph *b* of the second paragraph shall be read, with the necessary modifications, as a reference to the fraction that is the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the individual for the year; and

(*c*) the reference to the fraction "2/3" in subparagraph *c* of the second paragraph shall be read as a reference to the fraction obtained when the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the individual for the year is divided by 3/4."

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

206. (1) Section 726.20.2 of the said Act is amended

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

"(*a*) subject to the third paragraph, the amount by which 1/2 of the excess that would be referred to in paragraph *a* of section 726.4.10 in respect of the individual at the end of the year if the only expenses referred to in that paragraph were expenses in respect of which section 726.4.10.1 applies, exceeds the amount determined under the second paragraph;";

(2) by adding the following paragraphs:

"The amount to which subparagraph *a* of the first paragraph refers is the aggregate of

(*a*) any amount that the individual deducted under this section in computing the individual's taxable income for a preceding taxation year that began after 17 October 2000;

(*b*) any amount that is the quotient obtained when the amount that the individual deducted under this section in computing the individual's taxable income for a preceding taxation year that includes 28 February 2000 or 17 October 2000, or began after 28 February 2000 and ended before 17 October 2000, is divided by twice the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the individual for that preceding taxation year; and

(*c*) 2/3 of any amount that the individual deducted under this section in computing the individual's taxable income for a preceding taxation year that ended before 28 February 2000.

Where the individual's taxation year includes 28 February 2000 or 17 October 2000, or begins after 28 February 2000 and ends before 17 October 2000, the following rules apply:

(*a*) the reference to the fraction "1/2" in subparagraph *a* of the first paragraph shall be read as a reference to the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the individual for the year;

(*b*) the reference to the word "twice" in subparagraph *b* of the second paragraph shall be read, with the necessary modifications, as a reference to the fraction that is the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the individual for the year; and

(*c*) the reference to the fraction "2/3" in subparagraph *c* of the second paragraph shall be read as a reference to the fraction obtained by dividing 3/4 by the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the individual for the year."

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

207. (1) Section 730.1 of the said Act is replaced by the following section:

"**730.1.** In this Title, "pre-1986 capital loss balance" of an individual for a particular taxation year means the amount by which the amount determined under section 730.2 in respect of the individual for the particular year exceeds the aggregate of

(*a*) the aggregate of all amounts each of which is an amount deducted under Titles VI.5 and VI.5.1 in computing the individual's taxable income for taxation years that precede the particular year and that ended before 1 January 1988 or began after 17 October 2000;

(*b*) 3/4 of the aggregate of all amounts each of which is an amount deducted under Titles VI.5 and VI.5.1 in computing the individual's taxable income for taxation years that precede the particular year and that ended after 31 December 1987 but before 1 January 1990, or that began after 28 February 2000 and ended before 17 October 2000;

(*c*) 2/3 of the aggregate of all amounts each of which is an amount deducted under Titles VI.5 and VI.5.1 in computing the individual's taxable income for taxation years that precede the particular year and that ended after 31 December 1989 but before 28 February 2000; and

(*d*) any amount that is the quotient obtained by dividing the amount deducted under Titles VI.5 and VI.5.1 in computing the individual's taxable income for a taxation year that precedes the particular year and includes 28 February 2000 or 17 October 2000 by twice the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the individual for that taxation year that precedes the particular year."

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

208. Section 733 of the French text of the said Act is amended by replacing "a aliéné du" by "a aliéné le".

209. (1) Section 742 of the said Act is amended by replacing "1/4" in the portion of the second paragraph before subparagraph *a* by "1/2".

(2) Subsection 1 applies in respect of dispositions that occur after 27 February 2000. However, in respect of such dispositions that occur before 18 October 2000, the reference to the fraction "1/2" in the portion of the second paragraph of section 742 of the said Act before subparagraph *a* shall be read as a reference to the fraction "1/3".

210. (1) Section 742.1 of the said Act is amended by replacing "1/4" in the portion of the second paragraph before subparagraph *a* by "1/2".

(2) Subsection 1 applies in respect of dispositions that occur after 27 February 2000. However, in respect of such dispositions that occur before 18 October 2000, the reference to the fraction "1/2" in the portion of the second paragraph of section 742.1 of the said Act before subparagraph *a* shall be read as a reference to the fraction "1/3".

211. (1) Section 752.0.10.1 of the said Act is amended by replacing the portion before paragraph *a* of the definition of "total gifts of qualified property" in the first paragraph by the following:

""total gifts of qualified property" of an individual for a taxation year means the aggregate of all amounts each of which is the fair market value, as certified by the Minister of the Environment, of a gift, other than a gift the fair market value of which is included in the total Crown gifts or the total cultural gifts of the individual for the year, made by the individual in the year or in any of the five preceding taxation years, if the conditions set out in section 752.0.10.2 are met in respect of that amount, to".

(2) Subsection 1 applies in respect of gifts made after 27 February 2000.

212. (1) Section 752.0.10.3 of the said Act is replaced by the following section:

"**752.0.10.3.** The amount representing the fair market value of a gift shall not be included in the total Crown gifts, the total gifts of qualified property, the total cultural gifts or the total charitable gifts of an individual for a taxation year, unless the making of the gift is proven by

(*a*) a receipt for the gift filed with the Minister that meets the prescribed requirement and contains in a clear and unalterable manner the prescribed statement and the prescribed information; and

(*b*) in the case of a gift described in paragraph *a* of the definition of "total cultural gifts" in the first paragraph of section 752.0.10.1, the certificate issued under subsection 1 of section 33 of the Cultural Property Export and Import Act (Revised Statutes of Canada, 1985, chapter C-51)."

(2) Subsection 1 applies in respect of gifts made after 20 December 2000.

213. (1) Section 752.0.10.3.2 of the said Act is replaced by the following section:

"**752.0.10.3.2.** For the purpose of applying subparagraph ii of paragraph *c* of section 422, section 436 and this chapter in respect of a gift made by an individual the subject of which is a qualified property, the fair market value of the gift at the time the gift was made or, for the purposes of section 752.0.10.12, the fair market value otherwise determined of the gift at that time and, subject to section 752.0.10.12, the individual's proceeds of disposition of the property that is the subject of the gift, are deemed to be equal to the amount determined by the Minister of the Environment to be

(*a*) where the subject of the gift is land, the fair market value of the gift; or

(*b*) where the subject of the gift is a servitude referred to in paragraph *b* of the definition of "qualified property" in the first paragraph of section 752.0.10.1, the greater of its fair market value otherwise determined and the amount by which the fair market value of the land encumbered by the servitude has been reduced as a result of the making of the gift of the servitude."

(2) Subsection 1 applies in respect of gifts made after 12 May 1994. However, where section 752.0.10.3.2 of the said Act applies in respect of gifts made before 28 February 2000, it shall be read as follows:

"**752.0.10.3.2.** For the purpose of applying subparagraph ii of paragraph *c* of section 422, section 436 and this chapter in respect of a gift made by an individual and that is a servitude referred to in paragraph *b* of the definition of "qualified property" in the first paragraph of section 752.0.10.1, the fair market value of the gift at the time the gift was made or, for the purposes of section 752.0.10.12, the fair market value otherwise determined of the gift at that time and, subject to section 752.0.10.12, the individual's proceeds of disposition of the property that is the subject of the gift, are deemed to be equal to the greater of

(*a*) the fair market value otherwise determined of the gift; and

(*b*) the amount by which the fair market value of the land encumbered by the servitude has been reduced as a result of the making of the gift of the servitude."

214. (1) Section 752.0.10.4.0.1 of the said Act is replaced by the following section:

"**752.0.10.4.0.1.** For the purposes of subparagraph ii of paragraph *c* of section 422, section 436 and this chapter, where at any time the Canadian Cultural Property Export Review Board, the Commission des biens culturels du Québec or the Minister of the Environment, as the case may be, determines

or redetermines an amount to be the fair market value of a property that is the subject of a gift described in the definition of "total charitable gifts" in the first paragraph of section 752.0.10.1 made by a taxpayer within the two-year period that begins at that time, the last amount so determined or redetermined within the period is deemed to be the fair market value of the property at the time the gift was made and, subject to sections 752.0.10.12, 752.0.10.13 and 752.0.10.14, to be the taxpayer's proceeds of disposition of the property."

(2) Subsection 1 applies in respect of gifts made after 27 February 2000.

215. (1) The said Act is amended by inserting the following sections after section 752.0.10.4.0.1:

"**752.0.10.4.0.2.** An individual may request by notice in writing to the Minister of the Environment a determination of the fair market value of a property the individual disposes of or proposes to dispose of and that would, if the disposition were made and the certificates described in section 752.0.10.7.1 were issued by the Minister of the Environment in respect of the property, be a gift described in the definition of "total gifts of qualified property" in the first paragraph of section 752.0.10.1.

"**752.0.10.4.0.3.** The Minister of the Environment shall with all due dispatch make a determination in accordance with section 752.0.10.3.2 of the fair market value of the property that is the subject of the request referred to in section 752.0.10.4.0.2 and give notice of the determination in writing to the individual who has disposed of, or who proposes to dispose of, the property.

However, no such determination shall be made if the request is received by the Minister of the Environment after three years after the end of the individual's taxation year in which the disposition occurred.

"**752.0.10.4.0.4.** Where the Minister of the Environment has, in accordance with section 752.0.10.4.0.3, notified an individual of the amount determined to be the fair market value of a property the individual has disposed of or proposes to dispose of, the following rules apply:

(*a*) on receipt of a written request made by the individual on or before the day that is 90 days after the day that the individual was so notified, the Minister of the Environment shall with all due dispatch confirm or redetermine the fair market value;

(*b*) the Minister of the Environment may, on that Minister's own initiative, at any time redetermine the fair market value;

(*c*) in the cases referred to in paragraphs *a* and *b*, the Minister of the Environment shall notify the individual in writing of that Minister's confirmation or redetermination; and

(*d*) any such redetermination is deemed to replace all preceding determinations and redeterminations of the fair market value of the property from the time at which the first such determination was made.

"**752.0.10.4.0.5.** Where the Minister of the Environment determines in accordance with section 752.0.10.4.0.3 the fair market value of a property, or redetermines that fair market value in accordance with section 752.0.10.4.0.4, and the property has been disposed of to a qualified donee described in the definition of "total gifts of qualified property" in the first paragraph of section 752.0.10.1, the Minister shall issue to the individual who made the disposition a certificate that states the fair market value of the property so determined or redetermined.

Where the Minister of the Environment has issued more than one certificate in respect of the same property, the last certificate is deemed to replace all preceding certificates from the time at which the first certificate was issued."

(2) Subsection 1 applies in respect of gifts made, or proposed to be made, after 27 February 2000.

216. (1) Section 752.0.10.4.1 of the said Act is amended by adding the following paragraph after paragraph *b*:

"(*c*) to a certificate issued under section 752.0.10.4.0.5 or to a decision of a court resulting from an appeal under section 93.1.15.2 of the Act respecting the Ministère du Revenu (chapter M-31)."

(2) Subsection 1 applies in respect of gifts made after 27 February 2000.

217. (1) Section 752.0.10.7.1 of the said Act is replaced by the following section:

"**752.0.10.7.1.** No individual may deduct, for a taxation year, an amount under section 752.0.10.6 in respect of a gift of a qualified property unless the individual files with the Minister, along with the fiscal return referred to in section 1000 the individual is required to file for the year, the following certificates issued by the Minister of the Environment:

(*a*) the certificate stating that the land referred to in paragraph *a* of the definition of "qualified property" in the first paragraph of section 752.0.10.1 or the land encumbered with a servitude referred to in paragraph *b* of that definition, as the case may be, has undeniable ecological value and, where such is the case, that the mission in Québec of a charity referred to in paragraph *a* of the definition of "total gifts of qualified property" in the first paragraph of section 752.0.10.1 consists mainly, at the time of the gift, in the conservation of the ecological heritage; and

(*b*) the certificate relating to the fair market value of a gift to which the definition of "total gifts of qualified property" in the first paragraph of section 752.0.10.1 refers."

(2) Subsection 1 applies in respect of gifts made after 27 February 2000.

218. (1) Section 752.0.10.9 of the said Act is replaced by the following section:

"**752.0.10.9.** Subject to section 752.0.10.16, a gift made by an individual in the taxation year in which the individual dies, including a gift deemed by any of sections 752.0.10.10, 752.0.10.10.1, 752.0.10.10.3, 752.0.10.10.5, 752.0.10.13, 752.0.10.14 and 752.0.10.16 to have been so made, is deemed, for the purposes of this chapter other than this section, to have been made by the individual in the preceding taxation year to the extent that an amount in respect of the gift is not deducted under section 752.0.10.6 for the taxation year in which the individual dies."

(2) Subject to subsection 3, subsection 1 applies in respect of deaths that occur after 31 December 1998. However, where section 752.0.10.9 of the said Act applies before the taxation year 2000, it shall be read without reference to ", 752.0.10.13, 752.0.10.14".

(3) Where the legal representative of an individual notifies the Minister of Revenue in writing on or before 30 December 2003 of the intention of the individual's legal representative that this subsection apply in respect of a gift made by the individual after 31 December 1996 and before 1 January 2000, section 752.0.10.9 of the said Act, enacted by subsection 1, applies to the taxation year in which the gift was made and shall be read, in respect of the taxation years 1996 to 1998, without reference to ", 752.0.10.10.3, 752.0.10.10.5".

219. (1) The said Act is amended by inserting the following sections after section 752.0.10.10.1:

"**752.0.10.10.2.** Section 752.0.10.10.3 applies to an individual in respect of a life insurance policy where

(*a*) the policy is a life insurance policy under which, immediately before the individual's death, the individual's life was insured;

(*b*) a transfer of money, or a transfer by means of a negotiable instrument, is made by reason of the individual's death and solely because of the obligations under the policy, from an insurer to a qualified donee, other than a transfer the amount of which is not included in computing the income of the individual or the individual's succession for any taxation year but would have been included, but for section 430, in computing the income of the individual or the individual's succession for a taxation year if the transfer had been made to the individual's legal representative for the benefit of the individual's succession;

(*c*) immediately before the individual's death, the individual's consent would have been required to change the recipient of the transfer described in paragraph *b* and the donee was neither a policyholder under the policy, nor an assignee of the individual's interest under the policy; and

(*d*) the transfer occurs within the 36-month period that begins at the time of the death of the individual or, where written application to extend the period has been made to the Minister by the individual's legal representative, within such longer period as the Minister considers reasonable in the circumstances.

"**752.0.10.10.3.** Where this section applies to an individual, in respect of an insurance policy, by reason of section 752.0.10.10.2,

(*a*) for the purposes of this chapter, other than section 752.0.10.10.2, the transfer described in that section is deemed to be a gift made immediately before the individual's death by the individual to the qualified donee referred to in section 752.0.10.10.2; and

(*b*) the fair market value of the gift is deemed to be the fair market value, at the time of the individual's death, of the right to that transfer, determined without reference to any risk of default with regard to obligations of the insurer.

"**752.0.10.10.4.** Section 752.0.10.10.5 applies to an individual, in respect of a registered retirement savings plan or a registered retirement income fund, where

(*a*) by reason of the individual's death, a transfer of money, or a transfer by means of a negotiable instrument, is made, from a registered retirement savings plan or registered retirement income fund, other than a plan or fund of which a licensed annuities provider is the issuer or carrier, to a qualified donee, solely because of the donee's interest as a beneficiary under the plan or fund;

(*b*) immediately before the individual's death, the individual was the annuitant under the plan or fund, within the meaning of paragraph *b* of section 905.1 or paragraph *d* of section 961.1.5, as the case may be; and

(*c*) the transfer occurs within the 36-month period that begins at the time of the death of the individual or, where written application to extend the period has been made to the Minister by the individual's legal representative, within such longer period as the Minister considers reasonable in the circumstances.

"**752.0.10.10.5.** Where this section applies to an individual, in respect of a registered retirement savings plan or registered retirement income fund, by reason of section 752.0.10.10.4,

(*a*) for the purposes of this chapter, other than section 752.0.10.10.4, the transfer referred to in that section is deemed to be a gift made immediately before the individual's death by the individual to the qualified donee referred to in section 752.0.10.10.4; and

(*b*) the fair market value of the gift is deemed to be the fair market value, at the time of the individual's death, of the right to the transfer, determined without reference to any risk of default with regard to the obligations of the issuer of the plan or the carrier of the fund."

(2) Subsection 1 applies in respect of deaths that occur after 31 December 1998.

220. (1) Section 752.0.10.12 of the said Act is amended by inserting "otherwise determined" after "greater than the fair market value".

(2) Subsection 1 applies in respect of gifts made after 12 May 1994.

221. (1) Sections 752.0.10.13 and 752.0.10.14 of the said Act are replaced by the following sections:

"**752.0.10.13.** Subject to section 752.0.10.14, where at any time an individual makes a gift, described in either of the definitions of "total Crown gifts" and "total charitable gifts" in the first paragraph of section 752.0.10.1, of a work of art created by the individual that is property in the individual's inventory, or acquired under circumstances where section 430 applied, and at that time the fair market value of the work of art exceeds its cost amount to the individual, the following rules apply:

(*a*) where the gift is made by reason of the death of the individual, the gift is deemed to have been made immediately before the death; and

(*b*) the individual or the individual's legal representative may designate in the fiscal return required to be filed by or for the individual under section 1000 for the year in which the gift is made, an amount that is deemed to be for the individual, the proceeds of disposition of the work of art and, for the purposes of section 752.0.10.1, the fair market value of the gift, that must not be greater than the fair market value nor less than the cost amount to the individual of the work of art at that time.

"**752.0.10.14.** Where at any time an individual makes a gift, after 31 December 1990, of a work of art that is a cultural property described in section 232 created by the individual and that is property in the individual's inventory, or was acquired by the individual under circumstances where section 430 applied, and at that time the fair market value of the work of art exceeds its cost amount to the individual, the following rules apply:

(*a*) where the gift is made by reason of the death of the individual, the gift is deemed to have been made immediately before the death; and

(*b*) the individual is deemed to have received, at that time, proceeds of disposition equal to the cost amount to the individual of the work of art at that time."

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

(3) In addition, where a taxpayer or a taxpayer's legal representative notifies the Minister of Revenue in writing on or before 30 December 2003 of the intention of the taxpayer or the taxpayer's legal representative that this subsection apply in respect of a gift made after 31 December 1996 and before 1 January 2000, subsection 1 applies to the taxation year in which the gift was made and, for the purposes of paragraph *b* of section 752.0.10.13 of the said Act, the amount designated in the notice in respect of the gift is deemed to have been validly designated in the taxpayer's fiscal return for the taxation year in which the gift was made.

222. (1) Section 752.0.11.1 of the said Act is amended by inserting the following paragraph after paragraph *r*:

"(*r*.1) for reasonable expenses, relating to the construction of the principal place of residence of a person who lacks normal physical development or has a severe and prolonged mobility impairment, that can reasonably be considered to be incremental costs incurred to enable the person to gain access to, or to be mobile or functional within, the person's principal place of residence; or".

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

223. (1) Section 752.0.14 of the said Act is amended by replacing paragraph *b* by the following paragraph:

"(*b*) a physician or, where the individual has a sight impairment, a physician or an optometrist or, where the individual has a speech impairment, a physician or a speech-language pathologist, or, where the individual has a hearing impairment, a physician or an audiologist, or, where the individual has an impairment with respect to the individual's ability in walking, or in feeding and dressing, a physician or an occupational therapist, or, where the individual has an impairment with respect to the individual's ability in perceiving, thinking and remembering, a physician or a psychologist, has certified in prescribed form that the individual has an impairment referred to in paragraph *a*;".

(2) Subsection 1 applies in respect of certificates issued after 17 October 2000.

224. (1) Section 752.0.17 of the said Act, amended by section 69 of chapter 40 of the statutes of 2002, is again amended by replacing the third paragraph by the following paragraph:

"The Minister may obtain the advice of a body or of another department to determine whether an individual in respect of whom an amount has been deducted under section 752.0.14, 752.0.15 or 752.0.19 has a severe and prolonged mental or physical impairment the effects of which are such that the individual's ability to perform a basic activity of daily living is markedly restricted, and any person referred to in that section shall, on request in writing by the body or the other department for information with respect to an individual's impairment and its effect on the individual or with respect to the therapy referred to in subparagraph ii of subparagraph *b* of the first paragraph that is, where applicable, required to be administered, provide the information so requested in writing."

(2) Subsection 1 applies from the taxation year 1999. However, where it amends the third paragraph of section 752.0.17 of the said Act otherwise than to add "or with respect to the therapy referred to in subparagraph ii of subparagraph *b* of the first paragraph that is, where applicable, required to be administered,", it applies from the taxation year 2000.

225. (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, occupational therapist, nurse, physician, optometrist, speech-language pathologist, pharmacist, psychologist or practitioner is a reference to a person authorized to practise as such".

(2) Subsection 1 applies in respect of certificates issued after 17 October 2000.

226. Section 752.0.18.10 of the said Act is amended, in the French text of paragraph *a*,

(1) by replacing "toute autre maison" in subparagraph i by "tout autre établissement";

(2) by replacing subparagraphs ii and iii by the following subparagraphs:

"ii. une maison d'enseignement au Canada reconnue par le ministre comme offrant un enseignement, autre que celui conduisant à l'obtention de crédits universitaires, qui permet d'acquérir ou d'augmenter les compétences nécessaires à une profession;

"iii. une maison d'enseignement aux États-Unis qui est une université, un collège ou tout autre établissement offrant un enseignement postsecondaire, si le particulier a résidé au Canada pendant toute l'année, près de la frontière entre le Canada et les États-Unis, a fait la navette entre sa résidence et cette maison d'enseignement, et si les frais ont été payés à l'égard d'un programme d'enseignement de niveau postsecondaire;".

227. (1) Section 769 of the said Act is amended

(1) by replacing the portion before paragraph *c* of the French text by the following:

"**769.** L'article 768 ne s'applique pas si la ficudie visée à cet article remplit les conditions suivantes:

a) elle existait avant le 18 juin 1971;

b) elle résidait au Québec le 18 juin 1971 et y a résidé sans interruption, jusqu'à la fin de l'année d'imposition;";

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

"(*c*) did not carry on an eligible business in the taxation year;";

(3) by replacing paragraphs *d* and *e* of the French text by the following paragraphs:

"*d*) elle n'a reçu aucun bien sous forme de don depuis le 18 juin 1971;

"*e*) elle n'a, après le 18 juin 1971, encouru aucune dette envers une personne avec laquelle un bénéficiaire de la fiducie avait un lien de dépendance ni aucune autre obligation de payer un montant à une telle personne, et n'a pas encouru de telles dettes ou obligations garanties par une telle personne;";

(4) by adding the following paragraph after paragraph *e*:

"(*f*) has not received any property after 17 December 1999 where

i. the property was received as a result of a transfer from another trust,

ii. section 768 applied to a taxation year of the other trust that began before the property was so received, and

iii. no change in the beneficial ownership of the property resulted from the transfer."

(2) Subsection 1 applies from the taxation year 1999.

228. (1) Section 772.2 of the said Act is amended

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

""foreign oil and gas business" of a taxpayer means a business, carried on by the taxpayer in a taxing country, the principal activity of which is the extraction from natural accumulations, or from oil or gas wells, of petroleum, natural gas or related hydrocarbons;";

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

""production tax amount" of a taxpayer for a foreign oil and gas business carried on by the taxpayer in a taxing country for a taxation year means the total of all amounts each of which

(*a*) became receivable in the year by the government of the country because of an obligation, other than a commercial obligation, of the taxpayer, in respect of the business, to the government or a mandatary or instrumentality of the government;

(*b*) is computed by reference to the amount by which the amount or value of petroleum, natural gas or related hydrocarbons produced or extracted by the taxpayer in the course of carrying on the business in the year exceeds an amount that

i. is deductible, under the agreement or law that creates the obligation described in paragraph *a*, in computing the amount receivable by the government of the taxing country, and

ii. is intended to take into account the taxpayer's operating and capital costs of that production or extraction, and can reasonably be considered to have that effect;

(*c*) would not, but for section 772.5.6, be an income or profits tax; and

(*d*) is not identified as a royalty under the agreement that creates the obligation described in paragraph *a* or under any law of the taxing country;";

(3) by striking out "or political subdivision of a foreign country" in the following provisions:

— the portion of the definition of "non-business-income tax" before paragraph *a*;

— the portion of the definition of "business-income tax" before paragraph *a*;

— paragraph *b* of the definition of "economic profit";

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

""commercial obligation" in respect of a taxpayer's foreign oil and gas business in a country means an obligation of the taxpayer to a particular person, where

(*a*) the obligation was undertaken in the course of carrying on the business or in contemplation of the business; and

(*b*) the law of the country would have allowed the taxpayer to undertake an obligation, on substantially the same terms, to a person other than the particular person;";

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

""taxing country" means a foreign country the government of which regularly imposes, in respect of income from business carried on in the country, a levy or charge of general application that would, but for section 772.5.6, be an income or profits tax;".

(2) Paragraphs 1, 2, 4 and 5 of subsection 1 apply to taxation years of a taxpayer that begin after the earlier of

(1) 31 December 1999; and

(2) where, in accordance with paragraph *b* of subsection 26 of section 117 of the Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act (Statutes of Canada, 2001, chapter 17), a date is designated by the taxpayer for the purposes of that subsection 26, the later of

(*a*) the date so designated by the taxpayer; and

(*b*) 31 December 1994.

(3) Paragraph 3 of subsection 1 has effect from 28 June 1999.

229. (1) Section 772.4 of the said Act is amended by adding the following paragraphs after the second paragraph:

"Any reference in this chapter to the government of a foreign country or a country other than Canada includes a reference to the government of a political subdivision of such a country.

Where the income from a source in a particular country would be tax-exempt income but for the fact that a portion of the income is subject to an income or profits tax imposed by the government of a country other than Canada, that portion of the income is deemed, for the purposes of this chapter, to be income from a separate source in the particular country."

(2) Subsection 1 has effect from 28 June 1999.

230. (1) Section 772.5.1 of the said Act is amended by striking out "or political subdivision of a foreign country".

(2) Subsection 1 has effect from 28 June 1999.

231. (1) Section 772.5.2 of the said Act is amended by replacing "the prescribed rate" in subparagraph *a* of the third paragraph by "a rate of 40%".

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

232. (1) Section 772.5.5 of the said Act is repealed.

(2) Subsection 1 has effect from 28 June 1999.

233. (1) The said Act is amended by inserting the following section after section 772.5.5:

"**772.5.6.** For the purposes of this chapter, a taxpayer who is resident in Canada throughout a taxation year and carries on a foreign oil and gas business in a taxing country in the year is deemed to have paid in the year as an income or profits tax to the government of the taxing country an amount equal to the lesser of

(*a*) the amount by which 40% of the taxpayer's income from the business in the taxing country for the year exceeds the total of all amounts that are, but for this section, income or profits taxes paid in the year in respect of the business to the government of the taxing country; and

(*b*) the taxpayer's production tax amount for the business in the taxing country for the year."

(2) Subsection 1 applies to taxation years of a taxpayer that begin after the earlier of

(1) 31 December 1999; and

(2) where, in accordance with paragraph *b* of subsection 26 of section 117 of the Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act (Statutes of Canada, 2001, chapter 17), a date is designated by the taxpayer for the purposes of that subsection 26, the later of

(*a*) the date so designated by the taxpayer; and

(*b*) 31 December 1994.

(3) Notwithstanding sections 1010 to 1011 of the Taxation Act, the Minister of Revenue shall make such assessments, reassessments or additional assessments of tax, interest or penalties payable by a taxpayer under Part I of the said Act, as are necessary, for any taxation year that began before 1 January 2000, to give effect to paragraph 2 of subsection 2; sections 93.1.8 and 93.1.12 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, with the necessary modifications, to such assessments and reassessments.

234. (1) Section 772.6 of the said Act is amended, in paragraph *a*,

(1) by striking out "or political subdivision of a foreign country" in the portion before subparagraph i;

(2) by striking out subparagraph ii.

(2) Paragraph 1 of subsection 1 has effect from 28 June 1999.

(3) Paragraph 2 of subsection 1 applies from the taxation year 2001.

235. (1) Section 772.11 of the said Act, amended by section 79 of chapter 40 of the statutes of 2002, is again amended by striking out subparagraph *b* of the first paragraph.

(2) Subsection 1 applies from the taxation year 2001.

236. (1) Section 776.1.4.2 of the said Act is amended by replacing "amount paid" by "amount paid by the individual or".

(2) Subsection 1 has effect from 17 September 1998.

237. (1) The said Act is amended by inserting the following section after section 776.1.4.2:

"**776.1.4.3.** Where the Minister so directs, an individual or a qualifying trust in respect of the individual who, in a taxation year, pays an amount, other than an amount paid in the first 60 days of the year, for the purchase as first purchaser of a share described in paragraph *a* or *b* of section 776.1.1, is deemed, for the purposes of this division, to have paid that amount at the beginning of the year and not at the time it was actually paid."

(2) Subsection 1 applies in respect of amounts paid after 31 December 1997.

238. (1) Section 776.1.5.0.1 of the said Act is amended, in the first paragraph,

(1) by replacing "by a qualifying trust" in the definition of "replacement share" by "by the individual or a qualifying trust";

(2) by replacing "by a qualifying trust" in the definition of "specified balance" by "by the individual or a qualifying trust".

(2) Subsection 1 has effect from 17 September 1998.

239. (1) Section 776.1.5.0.2 of the said Act is amended

(1) by replacing "by a qualifying trust" in subparagraph *b* of the second paragraph by "by the individual or a qualifying trust";

(2) by adding the following paragraph after the second paragraph:

"Where the Minister so directs, an individual or a qualifying trust in respect of the individual who, in a taxation year, pays an amount, other than an amount paid in the first 60 days of the year, for the acquisition of replacement shares, is deemed to have paid that amount at the beginning of the year and not at the time it was actually paid."

(2) Subsection 1 has effect from 17 September 1998.

240. (1) Sections 776.1.5.0.3 and 776.1.5.0.4 of the said Act are amended by replacing "by a qualifying trust" by "by the individual or a qualifying trust".

(2) Subsection 1 has effect from 17 September 1998.

241. (1) Section 776.1.5.0.6 of the said Act is amended, in the first paragraph,

(1) by replacing "by a qualifying trust" in the definition of "replacement share" by "by the individual or a qualifying trust";

(2) by replacing "by a qualifying trust" in the definition of "specified balance" by "by the individual or a qualifying trust".

(2) Subsection 1 has effect from 1 January 1999.

242. (1) Section 776.1.5.0.7 of the said Act is amended

(1) by replacing "by a qualifying trust" in subparagraph *b* of the second paragraph by "by the individual or a qualifying trust";

(2) by adding the following paragraph after the second paragraph:

"Where the Minister so directs, an individual or a qualifying trust in respect of the individual who, in a taxation year, pays an amount, other than an amount paid in the first 60 days of the year, for the acquisition of replacement shares, is deemed to have paid that amount at the beginning of the year and not at the time it was actually paid."

(2) Subsection 1 has effect from 1 January 1999.

243. (1) Sections 776.1.5.0.8 and 776.1.5.0.9 of the said Act are amended by replacing "by a qualifying trust" by "by the individual or a qualifying trust".

(2) Subsection 1 has effect from 1 January 1999.

244. (1) Section 776.56 of the said Act is amended

(1) by replacing "the total amount" in paragraph *a* and "the aggregate" in paragraph *b* by "7/10";

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

"(*c*) each amount that is designated by a trust for a particular taxation year of the trust in respect of the individual and deemed by section 668 to be a taxable capital gain for the year in respect of the individual is, except in respect of an amount to which section 668.5 applies, deemed to be equal to 7/10 of the quotient obtained when that amount is divided by the fraction provided for the purposes of section 231 in respect of the trust for the particular taxation year."

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

245. (1) Section 776.59 of the said Act is amended by replacing "one-third" in the portion before paragraph *a* by "2/5".

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

246. (1) Section 776.60 of the said Act is replaced by the following section:

"**776.60.** For the purposes of section 776.51, the individual shall not deduct any amount for the year in computing the individual's taxable income or the individual's taxable income earned in Canada, as the case may be, under sections 725.6 and 726.0.1.

However, subject to the third paragraph, an amount otherwise deductible by the individual for the year in computing the individual's taxable income or the individual's taxable income earned in Canada, as the case may be, other than an amount referred to in this Title, shall be equal to the amount that would otherwise be deductible were it not for this Book.

The only amounts deductible by the individual for the year in computing the individual's taxable income or the individual's taxable income earned in Canada, as the case may be, under sections 725, 725.2 and 725.3 to 725.5 are

(*a*) as regards section 725, the amount that would be deductible under that section if section 776.56 were applicable in computing the individual's income for the year;

(*b*) as regards section 725.2, the amount deducted under that section, not exceeding the aggregate of

i. twice the amount deducted under section 725.2.2, and

ii. 3/5 of the amount by which the amount deducted under section 725.2 exceeds the amount determined under subparagraph i; and

(*c*) as regards sections 725.3 to 725.5, 3/5 of the amounts deducted under those sections."

(2) Subsection 1 applies from the taxation year 2000. However, where subparagraph i of subparagraph *b* of the third paragraph of section 776.60 of the said Act applies to the taxation year 2000, it shall be read as follows:

"i. the aggregate of

(1) twice the amount deducted under section 725.2.2 in respect of benefits that the individual is deemed by section 49 to have received in the year as a result of transactions, events or circumstances that occur after 17 October 2000, and

(2) the amount deducted under section 725.2.2 in respect of benefits that the individual is deemed by section 49 to have received in the year as a result of transactions, events or circumstances that occur before 18 October 2000, and".

247. (1) Section 776.70 of the said Act is amended by replacing "and 339.5" by ", 339.5 and 358.0.1".

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

248. (1) Section 782 of the said Act is amended by inserting "725.2.2 or" after "725.2 or" in paragraph *a*.

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

249. (1) Section 784 of the said Act is amended by inserting "725.2.2 or" after "725.2 or" in subparagraph *c* of the first paragraph.

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

250. Section 785.1 of the said Act is amended by replacing "sections 47.18 to 58 would apply" in subparagraph v of paragraph *b* by "Division VI of Chapter II of Title II of Book III would apply".

251. (1) Section 785.2 of the said Act is amended

(1) by replacing "sections 47.18 to 58 would apply" in subparagraph iv of paragraph *b* by "Division VI of Chapter II of Title II of Book III would apply";

(2) by inserting the following paragraph after paragraph *d*:

"(*d*.1) if the taxpayer is deemed by paragraph *b* to have disposed of a share that was acquired before 28 February 2000 under circumstances to which section 49.2 applied, the amount that would be added under paragraph *f* of section 255 in computing the adjusted cost base to the taxpayer of the share as a consequence of the deemed disposition, if Division VI of Chapter II of Title II of Book III were read without reference to section 49.6, shall be deducted from the taxpayer's proceeds of disposition of the share;".

(2) Paragraph 2 of subsection 1 applies in respect of changes in residence that occur after 31 December 1992.

252. (1) Section 801 of the said Act is replaced by the following section:

"**801.** Notwithstanding any other provision of this Part, a payment received or receivable by a member of a credit union in respect of a share of the capital stock of the credit union is deemed, where the share is not listed on a Canadian stock exchange or a foreign stock exchange, to have been received or to be receivable from the credit union as interest except if the payment is made or is to be made as or on account of a reduction of the paid-up capital, redemption, acquisition or cancellation of the share by the credit union, to the extent of the paid-up capital of that share, and such payment as interest is deductible in computing the income of the credit union."

(2) Subsection 1 has effect from 26 November 1999. In addition, where section 801 of the said Act, replaced by subsection 1, applies in respect of transactions that occur after 21 December 1992, the reference to "a prescribed stock exchange" in section 801 shall be read as a reference to "a stock exchange referred to in paragraph *a* or *b* of section 21.11.20R1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1)".

253. (1) The said Act is amended by inserting the following sections after section 851.16:

"**851.16.1.** Where an amount is deemed under section 851.16 to be a capital gain or capital loss of a holder of a segregated fund policy relating to a segregated fund trust or of another beneficiary of the trust, in respect of capital gains or losses realized or sustained in a taxation year of the trust that includes 28 February 2000 or 17 October 2000, and the trust so elects under this section in its fiscal return filed under this Part for the year, the following rules apply:

(*a*) the portion of the gains and losses that is in respect of capital gains or losses from dispositions of property that occurred before 28 February 2000 is deemed to be that proportion of the gains or losses that the number of days that are in the year and before 28 February 2000 is of the number of days that are in the year;

(*b*) the portion of the gains and losses that is in respect of capital gains or losses from dispositions of property that occurred in the year and in the period that began on 28 February 2000 and ended on 17 October 2000, is deemed to

be that proportion of the gains or losses that the number of days that are in the year and in that period is of the number of days that are in the year; and

(*c*) the portion of the gains and losses that is in respect of capital gains or losses from dispositions of property that occurred in the year and in the period that began on 18 October 2000 and ended at the end of the year, is deemed to be that proportion of the gains or losses that the number of days that are in the year and in that period is of the number of days that are in the year.

"**851.16.2.** Where a capital gain or a capital loss is deemed by section 851.16 to be a capital gain or a capital loss of a holder of a segregated fund policy relating to a segregated fund trust or of another beneficiary of the trust, in this section referred to as the "taxpayer", the following rules apply:

(*a*) if the capital gain or capital loss is in respect of capital gains or capital losses from dispositions of property by the trust that occurred before 28 February 2000 and the taxation year of the taxpayer includes 27 February 2000, the capital gain or the capital loss is deemed to be a capital gain or a capital loss, as the case may be, of the taxpayer from the disposition by the taxpayer of capital property in the year and before 28 February 2000;

(*b*) if the capital gain or capital loss is in respect of capital gains or capital losses from dispositions of property by the trust that occurred before 28 February 2000 and the taxation year of the taxpayer began after 27 February 2000 and ended before 18 October 2000, 9/8 of the capital gain or the capital loss is deemed to be a capital gain or a capital loss, as the case may be, of the taxpayer from the disposition by the taxpayer of capital property in the year;

(*c*) if the capital gain or capital loss is in respect of capital gains or capital losses from dispositions of property by the trust that occurred before 28 February 2000 and the taxation year of the taxpayer began after 27 February 2000 and ended after 17 October 2000, 9/8 of the capital gain or the capital loss is deemed to be a capital gain or a capital loss, as the case may be, of the taxpayer from the disposition by the taxpayer of capital property in the year and before 18 October 2000;

(*d*) if the capital gain or capital loss is in respect of capital gains or capital losses from dispositions of property by the trust that occurred before 28 February 2000 and the taxation year of the taxpayer began after 17 October 2000, 3/2 of the capital gain or the capital loss is deemed to be a capital gain or a capital loss, as the case may be, of the taxpayer from the disposition by the taxpayer of capital property in the year;

(*e*) if the capital gain or capital loss is in respect of capital gains or capital losses from dispositions of property by the trust that occurred after 27 February 2000 but before 18 October 2000 and the taxation year of the taxpayer began after 17 October 2000, 4/3 of the capital gain or capital loss is deemed to be a capital gain or a capital loss, as the case may be, of the taxpayer from the disposition by the taxpayer of capital property in the year;

(*f*) if the capital gain or capital loss is in respect of capital gains or capital losses from dispositions of property by the trust that occurred after 27 February 2000 but before 18 October 2000 and the taxation year of the taxpayer includes 28 February 2000 and 17 October 2000, the capital gain or the capital loss is deemed to be a capital gain or a capital loss, as the case may be, of the taxpayer from the disposition by the taxpayer of capital property in the year and in the period that began after 27 February 2000 and ended before 18 October 2000;

(*g*) if the capital gain or capital loss is in respect of capital gains or capital losses from dispositions of property by the trust that occurred after 27 February 2000 but before 17 October 2000 and the taxation year of the taxpayer began after 27 February 2000 and ended before 17 October 2000, the capital gain or the capital loss is deemed to be a capital gain or a capital loss, as the case may be, of the taxpayer from the disposition by the taxpayer of capital property in the year; and

(*h*) in any other case, the capital gain or the capital loss is deemed to be a capital gain or a capital loss, as the case may be, of the taxpayer from the disposition of capital property by the taxpayer in the taxpayer's taxation year and after 17 October 2000."

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

254. (1) Section 888.2 of the said Act is repealed.

(2) Subsection 1 applies in respect of shares acquired, but not disposed of, before 28 February 2000 and in respect of shares acquired after 27 February 2000.

255. (1) The said Act is amended by inserting the following section after section 935.8:

"**935.8.1.** Where an amount, other than an amount paid in the first 60 days of a taxation year, is paid as a premium by an individual in the year and the Minister so directs, the following rules apply:

(*a*) all or part of the amount may be designated in writing by the individual for the purposes of section 935.3 and, to that end, the amount is deemed to have been paid at the beginning of the year and not at the time it was actually paid; and

(*b*) the designation of all or part of that amount is deemed to have been made in the prescribed form the individual is required to send with the fiscal return the individual is required to file under section 1000 for the preceding taxation year."

(2) Subsection 1 applies in respect of amounts paid after 31 December 1997.

256. (1) The said Act is amended by inserting the following section after section 935.18:

"**935.19.** Where an amount, other than an amount paid in the first 60 days of a taxation year, is paid as a premium by an individual in the year and the Minister so directs, the following rules apply:

(*a*) all or part of the amount may be designated in writing by the individual for the purposes of section 935.14 and, to that end, the amount is deemed to have been paid at the beginning of the year and not at the time it was actually paid; and

(*b*) the designation of all or part of that amount is deemed to have been made in the prescribed form the individual is required to send with the fiscal return the individual is required to file under section 1000 for the preceding taxation year."

(2) Subsection 1 has effect from 1 January 1999.

257. (1) Section 965.0.9 of the said Act is amended by replacing paragraph *a* by the following paragraph:

"(*a*) the amount is a single amount no portion of which relates to an actuarial surplus,".

(2) Subsection 1 applies in respect of amounts transferred after 30 November 1999.

258. (1) The said Act is amended by inserting the following section after section 965.0.11:

"**965.0.11.1.** An amount is transferred from a registered pension plan, in this section referred to as the "transferor plan", in accordance with this section if

(*a*) the amount is a single amount;

(*b*) the amount is transferred in respect of the surplus under a money purchase provision, in this section referred to as the "former provision", of the transferor plan;

(*c*) the amount is transferred directly to another registered pension plan to be held in connection with a money purchase provision, in this section referred to as the "current provision", of the other plan;

(*d*) the amount is transferred in conjunction with the transfer of amounts from the former provision to the current provision on behalf of all or a significant number of members of the transferor plan whose benefits under the former provision are replaced by benefits under the current provision; and

(*e*) the transfer is acceptable, for the purposes of paragraph *e* of subsection 7.1 of section 147.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), to the Minister of National Revenue and that Minister has so notified the administrator of the transferor plan in writing.

For the purposes of subparagraph *b* of the first paragraph, "surplus" has the meaning assigned for the purposes of paragraph *b* of subsection 7.1 of section 147.3 of the Income Tax Act."

(2) Subsection 1 applies in respect of amounts transferred after 31 December 1998.

259. (1) Section 965.0.12 of the said Act is amended by replacing paragraphs *b* and *c* by the following paragraphs:

"(*b*) the amount is transferred in respect of the actuarial surplus under a defined benefit provision of the transferor plan;

"(*c*) the amount is transferred directly to another registered pension plan to be held in connection with a money purchase provision of the other plan;".

(2) Subsection 1 applies in respect of amounts transferred after 31 December 1990.

260. (1) Section 966 of the said Act is amended, in the English text,

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

"(*a*.1.1) "policy loan" means an amount advanced by an insurer to a policyholder in accordance with the terms and conditions of a life insurance policy;";

(2) by striking out paragraph *b*.2.

(2) Subsection 1 has effect from 20 December 2001.

261. (1) Section 985.5.2 of the said Act is amended by replacing "1065" in the first paragraph by "1065.1".

(2) Subsection 1 has effect from 24 December 2001.

262. Section 1029.8.36.72.1 of the said Act, amended by section 89 of chapter 9 of the statutes of 2002 and by section 169 of chapter 40 of the statutes of 2002, is again amended, in the English text of the first paragraph,

(1) by inserting the following definition after the definition of "eligible employee":

““eligible repayment of assistance” for a taxation year by a qualified corporation means the aggregate of

(*a*) where the qualified corporation pays in the taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of assistance referred to in subparagraph i of paragraph *a* of section 1029.8.36.72.7 that reduced the amount of the salaries or wages paid by the qualified corporation to an employee, for the purpose of computing the amount referred to in subparagraph *a* of the first paragraph of section 1029.8.36.72.2 that relates to a calendar year preceding the calendar year ending in the taxation year, the amount by which the amount that would have been determined under that subparagraph *a* in respect of the qualified corporation in relation to the preceding calendar year if each of the amounts of assistance paid in respect of the salaries or wages had been reduced by any amount paid by the qualified corporation, in respect of such an amount of assistance, as repayment in the taxation year or a preceding taxation year, exceeds the aggregate of

i. the amount determined under subparagraph *a* of the first paragraph of section 1029.8.36.72.2 in respect of the qualified corporation in relation to the preceding calendar year, and

ii. the aggregate of all amounts determined for a taxation year preceding the taxation year under this paragraph in relation to a repayment of assistance;

(*b*) where a corporation pays in a calendar year ending in the taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of assistance referred to in subparagraph i of paragraph *a* of section 1029.8.36.72.7 that reduced the amount of the salaries or wages paid by the corporation to an employee, for the purpose of computing the amount referred to in subparagraph *a* of the first paragraph of section 1029.8.36.72.3 that relates to a calendar year preceding the calendar year in relation to the qualified corporation at the end of which the corporation was not associated with any other qualified corporation carrying on a recognized business in the Québec area for its taxation year in which the preceding calendar year ended, the amount by which the amount that would have been determined under that subparagraph *a* in respect of the qualified corporation in relation to the preceding calendar year if each of the amounts of assistance paid in respect of the salaries or wages had been reduced by any amount paid, in respect of such an amount of assistance, as repayment in the calendar year or a preceding calendar year, exceeds the aggregate of

i. the amount determined under subparagraph *a* of the first paragraph of section 1029.8.36.72.3 in respect of the qualified corporation in relation to the preceding calendar year, and

ii. the aggregate of all amounts determined for a calendar year preceding the calendar year under this paragraph in relation to a repayment of assistance; and

(*c*) where a corporation pays in a calendar year ending in the taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of assistance referred to in subparagraph i of paragraph *b* of section 1029.8.36.72.7 that reduced the amount of the salaries or wages paid by the corporation to an employee, for the purpose of computing the excess amount referred to in paragraph *a* of section 1029.8.36.72.4 determined, in respect of a calendar year preceding the calendar year, in relation to all of the corporations that were associated with each other at the end of that preceding calendar year and with which the qualified corporation was associated at that time, the amount by which the amount that would have been determined under subparagraph *a* of the first paragraph of section 1029.8.36.72.3, with reference to the second paragraph of that section, in respect of the qualified corporation in relation to the preceding calendar year if, for the purposes of paragraph *a* of section 1029.8.36.72.4 in relation to that preceding calendar year, each of the amounts of assistance in respect of the salaries or wages had been reduced by any amount paid, in respect of such an amount of assistance, as repayment in the calendar year or a preceding calendar year, and the amount determined in accordance with that section 1029.8.36.72.4 had been attributed to a corporation in the same proportion as that determined in its respect in relation to the preceding calendar year, exceeds the aggregate of

i. the amount determined under subparagraph *a* of the first paragraph of section 1029.8.36.72.3, with reference to the second paragraph of that section, in respect of the qualified corporation in relation to the preceding calendar year, and

ii. the aggregate of all amounts determined for a calendar year preceding the calendar year under this paragraph in relation to a repayment of assistance;";

(2) by striking out the definition of "repayment of eligible assistance".

263. Section 1029.8.36.72.2 of the said Act is amended by replacing "repayment of eligible assistance" in the English text of subparagraph *b* of the first paragraph by "eligible repayment of assistance".

264. Section 1029.8.36.72.3 of the said Act, amended by section 90 of chapter 9 of the statutes of 2002, is again amended by replacing "repayment of eligible assistance" in the English text of subparagraph *b* of the first paragraph by "eligible repayment of assistance".

265. Section 1029.8.36.72.15 of the said Act, amended by section 92 of chapter 9 of the statutes of 2002 and by section 175 of chapter 40 of the statutes of 2002, is again amended, in the English text of the first paragraph,

(1) by inserting the following definition after the definition of "eligible employee":

""eligible repayment of assistance" for a taxation year by a qualified corporation means the aggregate of

(*a*) where the qualified corporation pays in the taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of assistance referred to in subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.21 that reduced the amount of the salaries or wages paid by the qualified corporation to an employee, for the purpose of computing the amount referred to in subparagraph *a* of the first paragraph of section 1029.8.36.72.16 that relates to a calendar year preceding the calendar year ending in the taxation year, the amount by which the amount that would have been determined under that subparagraph *a* in respect of the qualified corporation in relation to the preceding calendar year if each of the amounts of assistance paid in respect of the salaries or wages had been reduced by any amount paid by the qualified corporation, in respect of such an amount of assistance, as repayment in the taxation year or a preceding taxation year, exceeds the aggregate of

i. the amount determined under subparagraph *a* of the first paragraph of section 1029.8.36.72.16 in respect of the qualified corporation in relation to the preceding calendar year, and

ii. the aggregate of all amounts determined for a taxation year preceding the taxation year under this paragraph in relation to a repayment of assistance ;

(*b*) where a corporation pays in a calendar year ending in the taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of assistance referred to in subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.21 that reduced the amount of the salaries or wages paid by the corporation to an employee, for the purpose of computing the amount referred to in subparagraph *a* of the first paragraph of section 1029.8.36.72.17 that relates to a calendar year preceding the calendar year in relation to the qualified corporation at the end of which the qualified corporation was not associated with any other qualified corporation that was carrying on a recognized business in the Saguenay–Lac-Saint-Jean area, for its taxation year in which the preceding calendar year ended, the amount by which the amount would have been determined under that subparagraph *a* in respect of the qualified corporation in relation to the preceding calendar year if each of the amounts of assistance paid in respect of the salaries or wages had been reduced by any amount paid, in respect of such an amount of assistance, as repayment in the calendar year or a preceding calendar year, exceeds the aggregate of

i. the amount determined under subparagraph *a* of the first paragraph of section 1029.8.36.72.17 in respect of the qualified corporation in relation to the preceding calendar year, and

ii. the aggregate of all amounts determined for a calendar year preceding the calendar year under this paragraph in relation to a repayment of assistance ; and

(*c*) where a qualified corporation pays in a calendar year ending in the taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of assistance referred to in subparagraph i of subparagraph *b* of the first paragraph of section 1029.8.36.72.21 that reduced the amount of the salaries or wages paid by the corporation to an employee, for the purpose of computing the excess amount referred to in paragraph *a* of section 1029.8.36.72.18 determined, in respect of a calendar year preceding the calendar year, in relation to all of the corporations that were associated with each other at the end of that preceding calendar year and with which the qualified corporation was associated at that time, the amount by which the amount that would have been determined under subparagraph *a* of the first paragraph of section 1029.8.36.72.17, with reference to the second paragraph of that section, in respect of the qualified corporation in relation to the preceding calendar year if, for the purposes of paragraph *a* of section 1029.8.36.72.18 in relation to that preceding calendar year, each of the amounts of assistance in respect of the salaries or wages had been reduced by any amount paid, in respect of such an amount of assistance, as repayment in the calendar year or a preceding calendar year, and the amount determined in accordance with that section 1029.8.36.72.18 had been attributed to a qualified corporation in the same proportion as that determined in its respect in relation to the preceding calendar year, exceeds the aggregate of

i. the amount determined under subparagraph *a* of the first paragraph of section 1029.8.36.72.17, with reference to the second paragraph of that section, in respect of the qualified corporation in relation to the preceding calendar year, and

ii. the aggregate of all amounts determined for a calendar year preceding the calendar year under this paragraph in relation to a repayment of assistance;" ;

(2) by striking out the definition of "repayment of eligible assistance".

266. Section 1029.8.36.72.16 of the said Act, amended by section 176 of chapter 40 of the statutes of 2002, is again amended by replacing "repayment of eligible assistance" in the English text of subparagraph *b* of the first paragraph by "eligible repayment of assistance".

267. Section 1029.8.36.72.17 of the said Act, amended by section 93 of chapter 9 of the statutes of 2002 and by section 177 of chapter 40 of the statutes of 2002, is again amended by replacing "repayment of eligible assistance" in the English text of subparagraph *b* of the first paragraph by "eligible repayment of assistance".

268. Section 1029.8.36.72.29 of the said Act, amended by section 95 of chapter 9 of the statutes of 2002 and by section 186 of chapter 40 of the statutes of 2002, is again amended, in the English text of the first paragraph,

(1) by inserting the following definition after the definition of "eligible employee" :

““eligible repayment of assistance” for a taxation year by a qualified corporation means the aggregate of

(*a*) where the qualified corporation pays in the taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of assistance referred to in subparagraph i of paragraph *a* of section 1029.8.36.72.35 that reduced the amount of the salaries or wages paid by the qualified corporation to an employee, for the purpose of computing the amount referred to in subparagraph *a* of the first paragraph of section 1029.8.36.72.30 that relates to a calendar year preceding the calendar year ending in the taxation year, the amount by which the amount that would have been determined under that subparagraph *a* in respect of the qualified corporation in relation to the preceding calendar year if each of the amounts of assistance paid in respect of the salaries or wages had been reduced by any amount paid by the qualified corporation, in respect of such an amount of assistance, as repayment in the taxation year or a preceding taxation year, exceeds the aggregate of

i. the amount determined under subparagraph *a* of the first paragraph of section 1029.8.36.72.30 in respect of the qualified corporation in relation to the preceding calendar year, and

ii. the aggregate of all amounts determined for a taxation year preceding the taxation year under this paragraph in relation to a repayment of assistance;

(*b*) where a corporation pays in a calendar year ending in the taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of assistance referred to in subparagraph i of paragraph *a* of section 1029.8.36.72.35 that reduced the amount of the salaries or wages paid by the corporation to an employee, for the purpose of computing the amount referred to in subparagraph *a* of the first paragraph of section 1029.8.36.72.31 that relates to a calendar year preceding the calendar year in relation to the qualified corporation at the end of which the qualified corporation was not associated with any other qualified corporation that was carrying on a recognized business in the Angus Technopole for its taxation year in which the preceding calendar year ended, the amount by which the amount that would have been determined under that subparagraph *a* in respect of the qualified corporation in relation to the preceding calendar year if each of the amounts of assistance paid in respect of the salaries or wages had been reduced by any amount paid, in respect of such an amount of assistance, as repayment in the calendar year or a preceding calendar year, exceeds the aggregate of

i. the amount determined under subparagraph *a* of the first paragraph of section 1029.8.36.72.31 in respect of the qualified corporation in relation to the preceding calendar year, and

ii. the aggregate of all amounts determined for a calendar year preceding the calendar year under this paragraph in relation to a repayment of assistance; and

(*c*) where a qualified corporation pays in a calendar year ending in the taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of assistance referred to in subparagraph i of paragraph *b* of section 1029.8.36.72.35 that reduced the amount of the salaries or wages paid by the corporation to an employee, for the purpose of computing the excess amount referred to in paragraph *a* of section 1029.8.36.72.32 determined, in respect of a calendar year preceding the calendar year, in relation to all of the corporations that were associated with each other at the end of that preceding calendar year and with which the qualified corporation was associated at that time, the amount by which the amount that would have been determined under subparagraph *a* of the first paragraph of section 1029.8.36.72.31, with reference to the second paragraph of that section, in respect of the qualified corporation in relation to the preceding calendar year if, for the purposes of paragraph *a* of section 1029.8.36.72.32 in relation to that preceding calendar year, each of the amounts of assistance in respect of the salaries or wages had been reduced by any amount paid, in respect of such an amount of assistance, as repayment in the calendar year or a preceding calendar year, and the amount determined in accordance with that section 1029.8.36.72.32 had been attributed to a qualified corporation in the same proportion as that determined in its respect in relation to the preceding calendar year, exceeds the aggregate of

i. the amount determined under subparagraph *a* of the first paragraph of section 1029.8.36.72.31, with reference to the second paragraph of that section, in respect of the qualified corporation in relation to the preceding calendar year, and

ii. the aggregate of all amounts determined for a calendar year preceding the calendar year under this paragraph in relation to a repayment of assistance;" ;

(2) by striking out the definition of "repayment of eligible assistance".

269. Section 1029.8.36.72.30 of the said Act is amended by replacing "repayment of eligible assistance" in the English text of subparagraph *b* of the first paragraph by "eligible repayment of assistance".

270. Section 1029.8.36.72.31 of the said Act, amended by section 96 of chapter 9 of the statutes of 2002, is again amended by replacing "repayment of eligible assistance" in the English text of subparagraph *b* of the first paragraph by "eligible repayment of assistance".

271. Section 1029.8.36.73 of the said Act, amended by section 99 of chapter 9 of the statutes of 2002, is again amended, in the English text,

(1) by inserting the following definition after the definition of "eligible employer" in the first paragraph:

““eligible repayment of assistance”, for a particular taxation year or a particular fiscal period, by an eligible taxpayer or a qualified partnership, as the case may be, means

(*a*) in the case of an eligible taxpayer, the aggregate of

i. where the eligible taxpayer pays in the particular taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be repayment of assistance referred to in subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.83 that reduced the amount of the salaries or wages paid by the eligible taxpayer to an eligible employee, in the course of carrying on a business of making or manufacturing clothing or footwear, for the purpose of computing the excess amount referred to in paragraph *a* of section 1029.8.36.76 determined in respect of the eligible taxpayer in relation to a calendar year preceding the calendar year ending in the particular taxation year, other than the salaries or wages paid by the eligible taxpayer during the eligible taxpayer's initial calendar year in relation to that business, the amount by which the excess amount that would be determined under paragraph *a* of section 1029.8.36.76 in respect of the eligible taxpayer in relation to the preceding calendar year if each of the amounts of assistance paid in respect of the salaries or wages referred to therein were reduced by any amount paid by the eligible taxpayer, in respect of such an amount of assistance, as repayment during the particular taxation year or a preceding taxation year, exceeds the aggregate of

(1) the excess amount determined under paragraph *a* of section 1029.8.36.76 in respect of the eligible taxpayer in relation to the preceding calendar year, and

(2) the aggregate of all amounts determined for a taxation year preceding the particular taxation year under this subparagraph i, and

ii. where a person or a partnership pays in a particular calendar year ending in the particular taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be repayment of assistance referred to in subparagraph i of subparagraph *c* of the first paragraph of section 1029.8.36.83 that reduced the amount of the salaries or wages paid by the person or partnership, as the case may be, to an eligible employee, in the course of carrying on a business of making or manufacturing clothing or footwear, for the purpose of computing the excess amount referred to in section 1029.8.36.80 determined in respect of a calendar year preceding the particular calendar year in relation to a group of associated employers of which the person or partnership was a member at the end of that preceding calendar year, other than the salaries or wages paid by the person or partnership during the initial calendar year of the person or partnership in relation to that business, such proportion, as the amount attributed to the eligible taxpayer pursuant to the agreement filed by the eligible taxpayer pursuant to section 1029.8.36.78 as a member of the group of associated employers in respect of the preceding calendar year is of the aggregate of all the amounts attributed pursuant to the agreement or, in

the absence of such an agreement, as the amount of the salaries or wages paid by the eligible taxpayer for the purpose of computing the excess amount in respect of the preceding calendar year is of the amount of the salaries or wages paid by all the members of the group of associated employers for the purpose of computing the excess amount in respect of that preceding calendar year, of the amount by which the excess amount that would be determined under section 1029.8.36.80 in respect of the group of associated employers in relation to the preceding calendar year if each of the amounts of assistance paid in respect of the salaries or wages referred to therein were reduced by any amount paid, in respect of such an amount of assistance, by a member of the group as repayment during the particular calendar year or a preceding calendar year, exceeds the aggregate of

(1) the excess amount determined under section 1029.8.36.80 in respect of the group of associated employers in relation to the preceding calendar year, and

(2) the aggregate of all amounts determined for a calendar year preceding the particular calendar year under this subparagraph ii; and

(*b*) in the case of a qualified partnership, the aggregate of

i. where the qualified partnership pays in the particular fiscal period, pursuant to a legal obligation, an amount that may reasonably be considered to be repayment of assistance referred to in subparagraph i of subparagraph *b* of the first paragraph of section 1029.8.36.83 that reduced the amount of the salaries or wages paid by the qualified partnership to an eligible employee, in the course of carrying on a business of making or manufacturing clothing or footwear, for the purpose of computing the excess amount referred to in subparagraph *a* of the first paragraph of section 1029.8.36.77 determined in respect of the qualified partnership in relation to a calendar year preceding the calendar year ending in the particular fiscal period, other than the salaries or wages paid by the qualified partnership during its initial calendar year in relation to that business, the amount by which the excess amount that would be computed under subparagraph *a* of the first paragraph of section 1029.8.36.77 in respect of the qualified partnership in relation to the preceding calendar year if each of the amounts of assistance paid in respect of the salaries or wages referred to therein were reduced by any amount paid by the qualified partnership, in respect of such an amount of assistance, as repayment during the particular fiscal period or a preceding fiscal period, exceeds the aggregate of

(1) the excess amount determined under subparagraph *a* of the first paragraph of section 1029.8.36.77 in respect of the qualified partnership in relation to the preceding calendar year, and

(2) the aggregate of all amounts determined for a fiscal period preceding the particular fiscal period under this subparagraph i, and

ii. where a person or a partnership pays in a particular calendar year ending in the particular fiscal period, pursuant to a legal obligation, an amount that may reasonably be considered to be repayment of assistance referred to in subparagraph i of subparagraph *c* of the first paragraph of section 1029.8.36.83 that reduced the amount of the salaries or wages paid by the person or partnership, as the case may be, to an eligible employee, in the course of carrying on a business of making or manufacturing clothing or footwear, for the purpose of computing the excess amount referred to in section 1029.8.36.80 determined in respect of a calendar year preceding the particular calendar year in relation to a group of associated employers of which the person or partnership was a member at the end of that preceding calendar year, other than the salaries or wages paid by the person or partnership during the initial calendar year of the person or partnership in relation to that business, such proportion, as the amount attributed to the qualified partnership pursuant to the agreement filed by the qualified partnership pursuant to section 1029.8.36.79 as a member of the group of associated employers in respect of the preceding calendar year is of the aggregate of all the amounts attributed pursuant to the agreement or, in the absence of such an agreement, as the amount of the salaries or wages paid by the qualified partnership for the purpose of computing the excess amount in respect of the preceding calendar year is of the amount of the salaries or wages paid by all the members of the group of associated employers for the purpose of computing the excess amount in respect of that preceding calendar year, of the amount by which the excess amount that would be determined under section 1029.8.36.80 in respect of the group of associated employers in relation to the preceding calendar year if each of the amounts of assistance paid in respect of the salaries or wages referred to therein were reduced by any amount paid, in respect of such an amount of assistance, by a member of the group as repayment during the particular calendar year or a preceding calendar year, exceeds the aggregate of

(1) the excess amount determined under section 1029.8.36.80 in respect of the group of associated employers in relation to the preceding calendar year, and

(2) the aggregate of all amounts determined for a calendar year preceding the particular calendar year under this subparagraph ii;";

(2) by striking out the definition of "repayment of eligible assistance" in the first paragraph;

(3) by replacing "repayment of eligible assistance" in the third paragraph by "eligible repayment of assistance".

272. Section 1029.8.36.76 of the said Act is amended by replacing "repayment of eligible assistance" in the English text of paragraph *b* by "eligible repayment of assistance".

273. Section 1029.8.36.77 of the said Act is amended by replacing "repayment of eligible assistance" in the English text of subparagraph *b* of the first paragraph by "eligible repayment of assistance".

274. Section 1029.8.36.78 of the said Act is amended by replacing "repayment of eligible assistance" in the English text of paragraph *b* by "eligible repayment of assistance".

275. Section 1029.8.36.79 of the said Act is amended by replacing "repayment of eligible assistance" in the English text of subparagraph *b* of the first paragraph by "eligible repayment of assistance".

276. Section 1029.8.61.2 of the said Act is amended by replacing paragraph *b* by the following paragraph:

"(*b*) any amount that was taken into account in computing an amount that was deducted in computing the tax payable by the individual or the individual's spouse or that is deemed to have been paid to the Minister on account of the tax payable by the individual or the individual's spouse for the year or a preceding taxation year under this Part;".

277. Section 1029.8.62 of the said Act is amended, in the second paragraph,

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

"(*a*) expenses in respect of which an amount was deducted in computing the income, the taxable income or the tax payable of the individual or the individual's spouse for the year or a preceding taxation year under this Part, or is deemed to have been paid to the Minister by the individual or the individual's spouse on account of the tax payable by the individual or the individual's spouse for the year or a preceding taxation year under this Part;";

(2) by striking out subparagraph *b*.

278. (1) Section 1029.8.67 of the said Act, amended by section 210 of chapter 40 of the statutes of 2002, is again amended by replacing paragraph *b* of the definition of "earned income" by the following paragraph:

"(*b*) the amount by which the amount deducted in computing the individual's income or that would be so deducted, but for paragraph *e* of section 488R1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1), under section 78.6, is exceeded by all amounts included in computing the individual's income or that would be so included, but for section 39.6 and paragraphs *e*, *w* and *y* of that section 488R1, under sections 34 to 58.3, paragraphs *e*.2 to *e*.4 of section 311, paragraph *g* of section 312 as a scholarship, or fellowship or bursary, or paragraph *h* of that section 312 if it were read as follows:

"(*h*) any grant received to carry on research or any similar work;";".

(2) Subsection 1 applies from the taxation year 1999. However, where paragraph *b* of the definition of "earned income" in section 1029.8.67 applies

(1) to the taxation year 1999, 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 39.6 and 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) to the taxation year 2000, it shall be read as follows:

"(*b*) the amount by which the amount deducted in computing the individual's income or that would be so deducted, but for paragraph *e* of section 488R1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1), under section 78.6, is exceeded by all amounts included in computing the individual's income or that would be so included, but for section 39.6, subparagraph iii of paragraph *g* of section 312 and paragraphs *e*, *w* and *y* of that section 488R1, under sections 34 to 58.3, paragraphs *e*.2 to *e*.4 of section 311, paragraph *g* of section 312, if it were read without reference to "the amount by which" and ", exceeds the amount determined under section 312.2 in respect of the taxpayer", or paragraph *h* of that section 312 if it were read as follows:

"(*h*) any grant received to carry on research or any similar work;";".

279. (1) Section 1029.8.68 of the said Act is replaced by the following section:

"**1029.8.68.** For the purposes of the definition of "child care expense" in section 1029.8.67, child care expenses do not include expenses paid in a taxation year for an eligible child's attendance at a boarding school or camp to the extent that the total of those expenses exceeds the product obtained when $250 is multiplied by the number of eligible children each of whom is a person described in section 1029.8.76, the product obtained when $175 is multiplied by the number of eligible children each of whom is under seven years of age on 31 December of that year, or would have been had the child then been living, and the product obtained when $100 is multiplied by the number of all other eligible children, is multiplied by the number of weeks in the year during which the child attended the school or camp, or the medical expenses described in sections 752.0.11 to 752.0.13.0.1 or any other expenses paid for medical or hospital care, clothing, transportation, general or specific education services, or board or lodging, other than such expenses described in that definition."

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

280. (1) Section 1029.8.70 of the said Act is amended, in the second paragraph,

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

"(*a*) the total of the product obtained when $10,000 is multiplied by the number of eligible children of the individual, or of the supporting person, for the year each of whom is a person described in section 1029.8.76 and in respect of whom child care expenses referred to in the first paragraph were incurred, the product obtained when $7,000 is multiplied by the number of eligible children of the individual, or of the supporting person, for the year each of whom is under seven years of age on 31 December of that year, or would have been had the child then been living, and in respect of whom child care expenses referred to in the first paragraph were incurred, and the product obtained when $4,000 is multiplied by the number of all other eligible children of the individual, or of the supporting person, for the year in respect of whom child care expenses referred to in the first paragraph were incurred;";

(2) by replacing the portion of subparagraph i of subparagraph *b* before subparagraph 1 by the following:

"i. the product obtained when the total of the product obtained when $250 is multiplied by the number of eligible children of the individual, or of the supporting person, for the year each of whom is a person described in section 1029.8.76 and in respect of whom child care expenses referred to in the first paragraph were incurred, the product obtained when $175 is multiplied by the number of eligible children of the individual, or of the supporting person, for the year each of whom is under seven years of age on 31 December of that year, or would have been had the child then been living, and in respect of whom child care expenses referred to in the first paragraph were incurred, and the product obtained when $100 is multiplied by the number of all other eligible children of the individual, or of the supporting person, for the year in respect of whom child care expenses referred to in the first paragraph were incurred, is multiplied by the number of weeks in the year during which the child care expenses were incurred and throughout which the supporting person of the child was";

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

"ii. the product obtained when the total of the product obtained when $250 is multiplied by the number of eligible children of the individual, or of the supporting person, for the year each of whom is a person described in section 1029.8.76 and in respect of whom child care expenses referred to in the first paragraph were incurred, the product obtained when $175 is multiplied by the number of eligible children of the individual, or of the supporting person, for the year each of whom is under seven years of age on 31 December of that year, or would have been had the child then been living, and in respect of whom child care expenses referred to in the first paragraph were incurred, and the product obtained when $100 is multiplied by the number of all other eligible children of the individual, or of the supporting person, for the year in respect of whom child care expenses referred to in the first paragraph were

incurred, is multiplied by the number of months in the year, other than a month that includes all or part of a week described in subparagraph i, during which the child care expenses were incurred and throughout which the supporting person of the child was a student in attendance at a qualified educational institution and enrolled in an educational program of not less than three consecutive weeks duration that provides that each student in the program spend not less than 12 hours per month on courses in the program."

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

281. (1) Section 1029.8.71 of the said Act is amended

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

"i. the total of the product obtained when $10,000 is multiplied by the number of eligible children of the individual for the year each of whom is a person described in section 1029.8.76 and in respect of whom such expenses were incurred, the product obtained when $7,000 is multiplied by the number of eligible children of the individual for the year each of whom is under seven years of age on 31 December of that year, or would have been had the child then been living, and in respect of whom such expenses were incurred, and the product obtained when $4,000 is multiplied by the number of all other eligible children of the individual for the year in respect of whom such expenses were incurred, exceeds";

(2) by replacing the portion of subparagraph i of subparagraph *c* of the second paragraph before subparagraph 1 by the following:

"i. the product obtained when the total of the product obtained when $250 is multiplied by the number of eligible children of the individual for the year each of whom is a person described in section 1029.8.76 and in respect of whom child care expenses referred to in the first paragraph were incurred, the product obtained when $175 is multiplied by the number of eligible children of the individual for the year each of whom is under seven years of age on 31 December of that year, or would have been had the child then been living, and in respect of whom child care expenses referred to in the first paragraph were incurred, and the product obtained when $100 is multiplied by the number of all other eligible children of the individual for the year in respect of whom child care expenses referred to in the first paragraph were incurred, is multiplied by the number of weeks in the year during which the child care expenses were incurred and throughout which the supporting person of the child was";

(3) by replacing the portion of subparagraph ii of subparagraph *c* of the second paragraph before subparagraph 1 by the following:

"ii. the product obtained when the total of the product obtained when $250 is multiplied by the number of eligible children of the individual for the year each of whom is a person described in section 1029.8.76 and in respect of

whom child care expenses referred to in the first paragraph were incurred, the product obtained when $175 is multiplied by the number of eligible children of the individual for the year each of whom is under seven years of age on 31 December of that year, or would have been had the child then been living, and in respect of whom child care expenses referred to in the first paragraph were incurred, and the product obtained when $100 is multiplied by the number of all other eligible children of the individual for the year in respect of whom child care expenses referred to in the first paragraph were incurred, is multiplied by the number of months in the year, other than a month that includes all or part of a week described in subparagraph i, during which the child care expenses were incurred and throughout which".

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

282. (1) Section 1055.1 of the said Act is amended by replacing "1/4" in subparagraph ii of paragraph *a* by "1/2".

(2) Subsection 1 applies in respect of deaths that occur after 27 February 2000. However, when such deaths occur before 18 October 2000, the reference to "1/2" in subparagraph ii of paragraph *a* of section 1055.1 of the said Act shall be read as a reference to "1/3".

283. (1) The said Act is amended by inserting the following section after section 1065:

"**1065.1.** Notwithstanding sections 1063 to 1065, where the registration of a charity is revoked for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) under subsection 3 of section 168 of that Act, the registration of that charity is deemed revoked for the purposes of this Act and the regulations."

(2) Subsection 1 has effect from 24 December 2001.

284. (1) Section 1082.3 of the said Act is amended

(1) by replacing the definition of "transfer pricing capital adjustment" by the following definition:

""transfer pricing capital adjustment" of a taxpayer for a taxation year means, subject to the second paragraph, the aggregate of

(*a*) the aggregate of all amounts each of which is

i. 1/2 of the amount by which the adjusted cost base to the taxpayer of a capital property, other than a depreciable property, is reduced in the year because of an adjustment made under section 1082.4,

ii. 3/4 of the amount by which the adjusted cost base to the taxpayer of an intangible capital amount of the taxpayer in respect of a business is reduced in the year because of an adjustment made under section 1082.4, and

iii. the amount by which the capital cost to the taxpayer of a depreciable property is reduced in the year because of an adjustment made under section 1082.4; and

(*b*) the aggregate of all amounts each of which is the product obtained when the proportion that the taxpayer's share of the income or loss of the partnership for a fiscal period that ends in the year is of the income or loss of the partnership for that fiscal period is multiplied by the aggregate of all amounts each of which is

i. 1/2 of the amount by which the adjusted cost base to the partnership of a capital property, other than a depreciable property, is reduced in the fiscal period because of an adjustment made under section 1082.4,

ii. 3/4 of the amount by which the adjusted cost base to the partnership of an intangible capital amount of the partnership in respect of a business is reduced in the fiscal period because of an adjustment made under section 1082.4, and

iii. the amount by which the capital cost to the partnership of a depreciable property is reduced in the fiscal period because of an adjustment made under section 1082.4;";

(2) by adding the following paragraph:

"For the purposes of the definition of "transfer pricing capital adjustment" in the first paragraph,

(*a*) where the taxation year of the taxpayer includes 28 February 2000 or 17 October 2000, or begins after 28 February 2000 and ends before 17 October 2000, the reference to the fraction "1/2" in subparagraph i of paragraphs *a* and *b* of that definition shall be read as a reference to the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the taxpayer for the year; and

(*b*) where the income and loss of a partnership for a fiscal period are nil, it shall be assumed that the income of the partnership for that fiscal period is equal to $1,000,000."

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

285. (1) Section 1098 of the said Act is amended by replacing "18%" by "12%".

(2) Subsection 1 applies to taxation years that end after 27 February 2000. However, where such a taxation year ends before 18 October 2000, the reference to the percentage "12%" in section 1098 of the said Act shall be read as a reference to the percentage "15%".

286. (1) Section 1100 of the said Act is amended by replacing "18%" by "12%".

(2) Subsection 1 applies to taxation years that end after 27 February 2000. However, where such a taxation year ends before 18 October 2000, the reference to the percentage "12%" in section 1100 of the said Act shall be read as a reference to the percentage "15%".

287. (1) Section 1101 of the said Act is amended by replacing "18%" in subparagraph *a* of the first paragraph by "12%".

(2) Subsection 1 applies to taxation years that end after 27 February 2000. However, where such a taxation year ends before 18 October 2000, the reference to the percentage "12%" in subparagraph *a* of the first paragraph of section 1101 of the said Act shall be read as a reference to the percentage "15%".

288. (1) Section 1106 of the said Act is amended

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

"(*b*) notwithstanding any other provision of this Act, no amount received in a taxation year by a taxpayer as the dividend shall be included in computing the taxpayer's income for the year as income from a share of the capital stock of the corporation, but

i. where the dividend is in respect of capital gains of the corporation from dispositions of property that occurred before 28 February 2000, and the taxation year of the taxpayer includes 27 February 2000, the dividend is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of a capital property in the year and before 28 February 2000,

ii. where the dividend is in respect of capital gains of the corporation from dispositions of property that occurred before 28 February 2000, and the taxation year of the taxpayer began after 27 February 2000 and ended before 18 October 2000, 9/8 of the dividend is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of a capital property in the year,

iii. where the dividend is in respect of capital gains of the corporation from dispositions of property that occurred before 28 February 2000, and the taxation year of the taxpayer began after 17 October 2000, 3/2 of the dividend is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of a capital property in the year,

iv. where the dividend is in respect of capital gains of the corporation from dispositions of property that occurred before 28 February 2000 and the taxation year of the taxpayer began after 27 February 2000 and ended after 17 October 2000, 9/8 of the dividend is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of capital property in the year and before 18 October 2000,

v. where the dividend is in respect of capital gains of the corporation from dispositions of property that occurred after 27 February 2000 but before 18 October 2000, and the taxation year of the taxpayer began after 17 October 2000, 4/3 of the dividend is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of a capital property in the year,

vi. where the dividend is in respect of capital gains of the corporation from dispositions of property that occurred after 27 February 2000 but before 18 October 2000, and the taxation year of the taxpayer includes 17 October 2000, the dividend is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of a capital property in the year and in the period that began after 27 February 2000 and ended before 18 October 2000,

vii. where the dividend is in respect of capital gains of the corporation from dispositions of property that occurred after 27 February 2000 but before 17 October 2000, and the taxation year of the taxpayer began after 27 February 2000 and ended before 18 October 2000, the dividend is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of a capital property in the year, and

viii. in any other case, the dividend is deemed to be a capital gain of the taxpayer from the disposition of capital property in the year and after 17 October 2000.";

(2) by adding the following paragraphs:

"For the purposes of subparagraph *b* of the first paragraph, the following rules apply:

(*a*) dividends paid by a corporation are deemed to be paid in respect of the corporation's net capital gains in the order in which those net capital gains were realized by the corporation; and

(*b*) capital gains redemptions, within the meaning of subsection 6 of section 131 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), are deemed to be made in respect of net capital gains in the order in which those net capital gains were realized by the corporation to the extent that they are not reduced by dividends.

For the purposes of the second paragraph, the following rules apply:

(*a*) net capital gains of a corporation for a year is the amount by which the corporation's capital gains from dispositions of property in the year exceed the corporation's capital losses from dispositions of property in the year;

(*b*) net capital losses of a corporation for a year is the amount by which the corporation's capital losses from dispositions of property in the year exceed the corporation's capital gains from dispositions of property in the year;

(*c*) net capital gains of a corporation for a year are deemed to be realized evenly throughout the year, and

(*d*) net capital losses of a corporation for a year are deemed to be a capital loss of the corporation from the disposition of property in the following year."

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

289. (1) The said Act is amended by inserting the following sections after section 1106:

"**1106.0.1.** Where subparagraph *b* of the first paragraph of section 1106 applies in respect of a dividend paid by an investment corporation to a shareholder, the corporation shall disclose to the shareholder in prescribed form the amount of the dividend that is in respect of capital gains realized on dispositions of property that occurred before 28 February 2000, after 27 February 2000 but before 18 October 2000, and after 17 October 2000.

Where the requirement of the first paragraph is not met, the dividend is deemed to be in respect of capital gains from dispositions of property that occurred before 28 February 2000.

"**1106.0.2.** Where section 1106 applies in respect of a dividend paid by an investment corporation in the period that begins 60 days after the beginning of a taxation year of the corporation that includes 28 February 2000 or 17 October 2000 and ends 60 days after the end of that year, and the corporation does not elect under section 1106.0.3, the following rules apply:

(*a*) the portion of the dividend that is in respect of capital gains of the corporation from dispositions of property by the corporation in the year and in the particular period that began at the beginning of the year and ended on 27 February 2000 is deemed to be that proportion of the dividend that the corporation's net capital gains from dispositions of property in the particular period is of the total of the corporation's net capital gains from dispositions of property in each of the particular periods referred to in this paragraph;

(*b*) the portion of the dividend that is in respect of capital gains of the corporation from dispositions of property by the corporation in the year and in the particular period that began on 28 February 2000 and ended on 17 October 2000 is deemed to be that proportion of the dividend that the corporation's net capital gains from dispositions of property in the particular period is of the total of the corporation's net capital gains from dispositions of property in each of the particular periods referred to in this paragraph; and

(*c*) the portion of the dividend that is in respect of capital gains of the corporation from dispositions of property by the corporation in the year and in the particular period that began on 18 October 2000 and ended at the end of the year, is deemed to be that proportion of the dividend that the corporation's net capital gains from dispositions of property in the particular period is of the

total of the corporation's net capital gains from dispositions of property in each of the particular periods referred to in this paragraph.

In this section and in section 1106.0.4, net capital gains from dispositions of property in a particular period means the amount by which the corporation's capital gains from dispositions of property in a particular period exceeds the corporation's capital losses from dispositions of property in that period.

"**1106.0.3.** Where section 1106 applies in respect of a dividend paid by an investment corporation in the period that begins 60 days after the beginning of the corporation's taxation year that includes 28 February 2000 or 17 October 2000 and ends 60 days after the end of that year, and the corporation so elects under this section in its fiscal return filed under this Part for the year, the following rules apply:

(*a*) the portion of the dividend that is in respect of capital gains from dispositions of property that occurred in the year and before 28 February 2000 is deemed to be that proportion of the dividend that the number of days that are in that year and before 28 February 2000 is of the number of days that are in that year;

(*b*) the portion of the dividend that is in respect of capital gains from dispositions of property that occurred in the year and in the period that began on 28 February 2000 and ended on 17 October 2000, is deemed to be that proportion of the dividend that the number of days that are in the year and in that period is of the number of days that are in the year; and

(*c*) the portion of the dividend that is in respect of capital gains from dispositions of property that occurred in the year and in the period that began on 18 October 2000 and ended at the end of the year, is deemed to be that proportion of the dividend that the number of days that are in the year and in that period is of the number of days that are in the year.

"**1106.0.4.** For the purposes of sections 1106.0.2 and 1106.0.3, where the total amount of dividends, to which section 1106 applies, paid by an investment corporation in the period that begins 60 days after the beginning of a taxation year of the corporation that includes 28 February 2000 or 17 October 2000 and ends 60 days after the end of that year exceeds the total amount of the corporation's net capital gains from dispositions of property in that year, the following rules apply:

(*a*) the amount of those dividends to which sections 1106.0.2 and 1106.0.3 apply is the amount of the corporation's net capital gains from dispositions of property in that year; and

(*b*) the amount by which the total amount of dividends paid by the corporation in the period exceeds the total amount of the corporation's net capital gains from dispositions of property in that year is deemed to be a

dividend in respect of capital gains from dispositions of property in the first of the periods described in section 1106.0.2 that ended in the year.

"**1106.0.5.** Where no dividend to which section 1106.0.3 applies is paid by an investment corporation in respect of its net taxable capital gains for its taxation year that includes 28 February 2000 or 17 October 2000, the corporation has net capital gains or net capital losses from dispositions of property in the year, and the corporation so elects under this section in its fiscal return filed under this Part for the year, the following rules apply:

(*a*) the portion of those net capital gains and net capital losses that is in respect of capital gains and losses from dispositions of property that occurred before 28 February 2000 is deemed to be that proportion of the net capital gains or net capital losses respectively that the number of days that are in the year and before 28 February 2000 is of the number of days that are in the year;

(*b*) the portion of those net capital gains and net capital losses that is in respect of capital gains and losses from dispositions of property that occurred in the year and in the period that began on 28 February 2000 and ended on 17 October 2000is deemed to be that proportion of the net capital gains or net capital losses respectively that the number of days that are in the year and in that period is of the number of days that are in the year; and

(*c*) the portion of those net capital gains and net capital losses that is in respect of capital gains and losses from dispositions of property that occurred in the year and in the period that began on 18 October 2000 and ended at the end of the year, is deemed to be that proportion of the net capital gains or net capital losses respectively that the number of days that are in the year and in that period is of the number of days that are in the year.

In the first paragraph,

(*a*) the net capital gains of the corporation from dispositions of property in the year is the amount by which the corporation's capital gains from dispositions of property in the year exceeds the corporation's capital losses from dispositions of property in the year; and

(*b*) the net capital losses of the corporation from dispositions of property in the year is the amount by which the corporation's capital losses from dispositions of property in the year exceeds the corporation's capital gains from dispositions of property in the year."

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

290. (1) Section 1110 of the said Act is amended

(1) by replacing "3/4" by ", subject to the second paragraph, 1/2";

(2) by adding the following paragraph:

"However, where the year includes 28 February 2000 or 17 October 2000, or begins after 28 February 2000 and ends before 17 October 2000, the reference to the fraction "1/2" in the first paragraph shall be read as a reference to the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the corporation for the year."

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

291. (1) Section 1113 of the said Act is replaced by the following section:

"**1113.** Where a dividend is paid at any particular time during the period referred to in the first paragraph of section 1110, the mortgage investment corporation may elect in prescribed manner, in respect of the full amount of the dividend, that the following rules apply:

(*a*) the dividend is deemed to be a capital gains dividend to the extent that, subject to the second paragraph, it does not exceed the amount by which twice the taxed capital gains of the corporation for the year exceeds the aggregate of all dividends, and parts of dividends, paid by the corporation during the period and before the particular time that are deemed under this paragraph to be capital gains dividends; and

(*b*) notwithstanding any other provision of this Act, no amount received in a taxation year by a taxpayer as the dividend shall be included in computing the taxpayer's income for the year as income from a share of the capital stock of the corporation, but

i. where the dividend is in respect of capital gains of the corporation from dispositions of property that occurred before 28 February 2000, and the taxation year of the taxpayer includes 27 February 2000, the dividend is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of a capital property in the year and before 28 February 2000,

ii. where the dividend is in respect of capital gains of the corporation from dispositions of property that occurred before 28 February 2000 and the taxation year of the taxpayer began after 27 February 2000 and ended before 18 October 2000, 9/8 of the dividend is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of a capital property in the year,

iii. where the dividend is in respect of capital gains of the corporation from dispositions of property that occurred before 28 February 2000 and the taxation year of the taxpayer began after 17 October 2000, 3/2 of the dividend is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of a capital property in the year,

iv. where the dividend is in respect of capital gains of the corporation from dispositions of property that occurred before 28 February 2000 and the taxation year of the taxpayer began after 27 February 2000 and ended after 17 October 2000, 9/8 of the dividend is deemed to be a capital gain of the taxpayer from

the disposition by the taxpayer of capital property in the year and before 18 October 2000,

v. where the dividend is in respect of capital gains of the corporation from dispositions of property that occurred after 27 February 2000 but before 18 October 2000 and the taxation year of the taxpayer began after 17 October 2000, 4/3 of the dividend is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of a capital property in the year,

vi. where the dividend is in respect of capital gains of the corporation from dispositions of property that occurred after 27 February 2000 but before 18 October 2000 and the taxation year of the taxpayer includes 17 October 2000, the dividend is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of a capital property in the year and in the period that began after 27 February 2000 and ended before 18 October 2000,

vii. where the dividend is in respect of capital gains of the corporation from dispositions of property that occurred after 27 February 2000 but before 17 October 2000 and the taxation year of the taxpayer began after 27 February 2000 and ended before 17 October 2000, the dividend is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of a capital property in the year, and

viii. in any other case, the dividend is deemed to be a capital gain of the taxpayer from the disposition of capital property in the year and after 17 October 2000.

Where the taxation year of the corporation includes 28 February 2000 or 17 October 2000 or begins after 28 February 2000 and ends before 17 October 2000, the reference to the word "twice" in subparagraph *a* of the first paragraph shall be read, with the necessary modifications, as a reference to the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the corporation for the year."

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

292. (1) The said Act is amended by inserting the following sections after section 1113:

"**1113.1.** Where subparagraph *b* of the first paragraph of section 1113 applies in respect of a dividend paid by a mortgage investment corporation to a shareholder in the period that begins 91 days after the beginning of a taxation year of the corporation that includes 28 February 2000 or 17 October 2000 and ends 90 days after the end of that year, the corporation shall disclose to the shareholder in prescribed form the amount of the dividend that is in respect of capital gains realized on dispositions of property that occurred before 28 February 2000, after 27 February 2000 but before 18 October 2000, and after 17 October 2000.

Where the requirement of the first paragraph is not met, the dividend is deemed to be in respect of capital gains from dispositions of property that occurred before 28 February 2000.

"**1113.2.** Where section 1113 applies in respect of a dividend paid by a mortgage investment corporation in the period that begins 91 days after the beginning of a taxation year of the corporation that includes 28 February 2000 or 17 October 2000 and ends 90 days after the end of that year, and the corporation does not elect under section 1113.3, the following rules apply:

(*a*) the portion of the dividend that is in respect of capital gains from dispositions of property that occurred in the year and in the particular period that began at the beginning of the year and ended on 27 February 2000 is deemed to be that proportion of the dividend that the net capital gains of the corporation from the dispositions of property in the particular period is of the total of the corporation's net capital gains from the dispositions of property in each of the particular periods referred to in this paragraph;

(*b*) the portion of the dividend that is in respect of capital gains from dispositions of property that occurred in the year and in the particular period that began on 28 February 2000 and ended on 17 October 2000 is deemed to be that proportion of the dividend that the net capital gains of the corporation from the dispositions of property in the particular period is of the total of the corporation's net capital gains from the dispositions of property in each of the particular periods referred to in this paragraph; and

(*c*) the portion of the dividend that is in respect of capital gains from dispositions of property that occurred in the year and in the particular period that began on 18 October 2000 and ended at the end of the year, is deemed to be that proportion of the dividend that the net capital gains of the corporation from the dispositions of property in the particular period is of the total of the corporation's net capital gains from the dispositions of property in each of the particular periods referred to in this paragraph.

In this section, net capital gains from dispositions of property in a particular period means the amount by which the corporation's capital gains from dispositions of property in a particular period exceeds the corporation's capital losses from dispositions of property in that period.

"**1113.3.** Where section 1113 applies in respect of a dividend paid by a mortgage investment corporation in the period that begins 91 days after the beginning of a taxation year of the corporation that includes 28 February 2000 or 17 October 2000 and ends 90 days after the end of that year, and the corporation so elects under this section in its fiscal return filed under this Part for the year, the following rules apply:

(*a*) the portion of the dividend that is in respect of capital gains from dispositions of property that occurred in the year and before 28 February 2000 is deemed to be that proportion of the dividend that the number of days that are

in that year and before 28 February 2000 is of the number of days that are in that year;

(*b*) the portion of the dividend that is in respect of capital gains from dispositions of property that occurred in the year and in the period that began on 28 February 2000 and ended on 17 October 2000 is deemed to be that proportion of the dividend that the number of days that are in the year and in that period is of the number of days that are in the year; and

(*c*) the portion of the dividend that is in respect of capital gains from dispositions of property that occurred in the year and in the period that began on 18 October 2000 and ended at the end of the year, is deemed to be that proportion of the dividend that the number of days that are in the year and in that period is of the number of days that are in the year.

"**1113.4.** Where no dividend to which section 1113.3 applies is paid by a mortgage investment corporation in respect of its net taxable capital gains for its taxation year that includes 28 February 2000 or 17 October 2000, the corporation has net capital gains or net capital losses from dispositions of property in the year, and the corporation so elects under this section in its fiscal return filed under this Part for the year, the following rules apply:

(*a*) the portion of those net capital gains and net capital losses that is in respect of capital gains and losses from dispositions of property that occurred before 28 February 2000 is deemed to be that proportion of the net capital gains or net capital losses respectively that the number of days that are in the year and before 28 February 2000 is of the number of days that are in the year;

(*b*) the portion of those net capital gains and net capital losses that is in respect of capital gains and losses from dispositions of property that occurred in the year and in the period that began on 28 February 2000 and ended on 17 October 2000is deemed to be that proportion of the net capital gains or net capital losses respectively that the number of days that are in the year and in that period is of the number of days that are in the year; and

(*c*) the portion of those net capital gains and net capital losses that is in respect of capital gains and losses from dispositions of property that occurred in the year and in the period that began on 18 October 2000 and ended at the end of the year, is deemed to be that proportion of the net capital gains or net capital losses respectively that the number of days that are in the year and in that period is of the number of days that are in the year.

In the first paragraph,

(*a*) the net capital gains of a corporation from dispositions of property in a year is the amount by which the corporation's capital gains from dispositions of property in a year exceeds the corporation's capital losses from dispositions of property in the year; and

(*b*) the net capital losses of a corporation from dispositions of property in a year is the amount by which the corporation's capital losses from dispositions of property in a year exceeds the corporation's capital gains from dispositions of property in the year."

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

293. (1) Section 1116 of the said Act is amended

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

"(*b*) notwithstanding any other provision of this Act, no amount received in a taxation year by a taxpayer as the dividend shall be included in computing the taxpayer's income for the year as income from a share of the capital stock of the corporation, but

i. where the dividend is in respect of capital gains of the corporation from dispositions of property that occurred before 28 February 2000, and the taxation year of the taxpayer includes 27 February 2000, the dividend is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of a capital property in the year and before 28 February 2000,

ii. where the dividend is in respect of capital gains of the corporation from dispositions of property that occurred before 28 February 2000, and the taxation year of the taxpayer began after 27 February 2000 and ended before 18 October 2000, 9/8 of the dividend is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of a capital property in the year,

iii. where the dividend is in respect of capital gains of the corporation from dispositions of property that occurred before 28 February 2000, and the taxation year of the taxpayer began after 17 October 2000, 3/2 of the dividend is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of a capital property in the year,

iv. where the dividend is in respect of capital gains of the corporation from dispositions of property that occurred before 28 February 2000 and the taxation year of the taxpayer began after 27 February 2000 and ended after 17 October 2000, 9/8 of the dividend is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of a capital property in the year and before 18 October 2000,

v. where the dividend is in respect of capital gains of the corporation from dispositions of property that occurred after 27 February 2000 but before 18 October 2000 and the taxation year of the taxpayer began after 17 October 2000, 4/3 of the dividend is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of a capital property in the year,

vi. where the dividend is in respect of capital gains of the corporation from dispositions of property that occurred after 27 February 2000 but before 18 October 2000, and the taxation year of the taxpayer includes 17 October

2000, the dividend is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of a capital property in the year and in the period that began after 27 February 2000 and ended before 18 October 2000,

vii. where the dividend is in respect of capital gains of the corporation from dispositions of property that occurred after 27 February 2000 but before 17 October 2000, and the taxation year of the taxpayer began after 27 February 2000 and ended before 18 October 2000, the dividend is deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of a capital property in the year, and

viii. in any other case, the dividend is deemed to be a capital gain of the taxpayer from the disposition of capital property in the year and after 17 October 2000.";

(2) by adding the following paragraphs:

"For the purposes of subparagraph *b* of the first paragraph, the following rules apply:

(*a*) dividends paid by a corporation are deemed to be paid in respect of the corporation's net capital gains in the order in which those net capital gains were realized by the corporation; and

(*b*) capital gain redemptions, within the meaning of subsection 6 of section 131 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), are deemed to be made in respect of net capital gains in the order in which those net capital gains were realized by the corporation to the extent that they are not reduced by dividends.

For the purposes of the second paragraph, the following rules apply:

(*a*) net capital gains of a corporation for a year is the amount by which the corporation's capital gains from dispositions of property in the year exceed the corporation's capital losses from dispositions of property in the year;

(*b*) net capital losses of a corporation for a year is the amount by which the corporation's capital losses from dispositions of property in the year exceed the corporation's capital gains from dispositions of property in the year;

(*c*) net capital gains of a corporation for a year are deemed to be realized evenly throughout the year, and

(*d*) net capital losses of a corporation for a year are deemed to be a capital loss of the corporation from the disposition of property in the following year."

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

294. (1) The said Act is amended by inserting the following sections after section 1116:

"**1116.1.** Where subparagraph *b* of the first paragraph of section 1116 applies in respect of a dividend paid by a mutual fund corporation to a shareholder, the corporation shall disclose to the shareholder in prescribed form the amount of the dividend that is in respect of capital gains realized on dispositions of property that occurred before 28 February 2000, after 27 February 2000 but before 18 October 2000, and after 17 October 2000.

Where the requirement of the first paragraph is not met, the dividend is deemed to be in respect of capital gains from dispositions of property that occurred before 28 February 2000.

"**1116.2.** Where section 1116 applies in respect of a dividend paid by a mutual fund corporation in the period that begins 60 days after the beginning of a taxation year of the corporation that includes 28 February 2000 or 17 October 2000 and ends 60 days after the end of that year, and the corporation does not elect under section 1116.3, the following rules apply:

(*a*) the portion of the dividend that is in respect of capital gains of the corporation from dispositions of property by the corporation in the year and in the particular period that began at the beginning of the year and ended on 27 February 2000 is deemed to be that proportion of the dividend that the corporation's net capital gains from dispositions of property in the particular period is of the total of the corporation's net capital gains from dispositions of property in each of the particular periods referred to in this paragraph;

(*b*) the portion of the dividend that is in respect of capital gains of the corporation from dispositions of property by the corporation in the year and in the particular period that began on 28 February 2000 and ended on 17 October 2000 is deemed to be that proportion of the dividend that the corporation's net capital gains from dispositions of property in the particular period is of the total of the corporation's net capital gains from dispositions of property in each of the particular periods referred to in this paragraph; and

(*c*) the portion of the dividend that is in respect of capital gains of the corporation from dispositions of property by the corporation in the year and in the particular period that began on 18 October 2000 and ended at the end of the year is deemed to be that proportion of the dividend that the corporation's net capital gains from dispositions of property in the particular period is of the total of the corporation's net capital gains from dispositions of property in each of the particular periods referred to in this paragraph.

In this section and in section 1116.4, net capital gains from dispositions of property in a particular period means the amount by which the corporation's capital gains from dispositions of property in a particular period exceeds the corporation's capital losses from dispositions of property in that period.

"**1116.3.** Where section 1116 applies in respect of a dividend paid by a mutual fund corporation in the period that begins 60 days after the beginning of a taxation year of the corporation that includes 28 February 2000 or 17 October 2000 and ends 60 days after the end of that year, and the corporation so elects under this section in its fiscal return filed under this Part for the year, the following rules apply:

(*a*) the portion of the dividend that is in respect of capital gains from dispositions of property that occurred in the year and before 28 February 2000 is deemed to be that proportion of the dividend that the number of days that are in that year and before 28 February 2000 is of the number of days that are in that year;

(*b*) the portion of the dividend that is in respect of capital gains from dispositions of property that occurred in the year and in the period that began on 28 February 2000 and ended on 17 October 2000, is deemed to be that proportion of the dividend that the number of days that are in the year and in that period is of the number of days that are in the year; and

(*c*) the portion of the dividend that is in respect of capital gains from dispositions of property that occurred in the year and in the period that began on 18 October 2000 and ended at the end of the year, is deemed to be that proportion of the dividend that the number of days that are in the year and in that period is of the number of days that are in the year.

"**1116.4.** For the purposes of sections 1116.2 and 1116.3, where the total amount of dividends, to which section 1116 applies, paid by a mutual fund corporation in the period that begins 60 days after the beginning of a taxation year of the corporation that includes 28 February 2000 or 17 October 2000 and ends 60 days after the end of that year exceeds the total amount of the corporation's net capital gains from dispositions of property in that year, the following rules apply:

(*a*) the amount of those dividends to which sections 1116.2 and 1116.3 apply is the amount of the corporation's net capital gains from dispositions of property in that year; and

(*b*) the amount by which the total amount of dividends paid by the corporation in the period exceeds the total amount of the corporation's net capital gains from dispositions of property in that year is deemed to be a dividend in respect of capital gains from dispositions of property in the first of the periods described in section 1116.2 that ended in the year.

"**1116.5.** Where no dividend to which section 1116.3 applies is paid by a mutual fund corporation in respect of its net taxable capital gains for its taxation year that includes 28 February 2000 or 17 October 2000, the corporation has net capital gains or net capital losses from dispositions of property in the year, and the corporation so elects under this section in its fiscal return filed under this Part for the year, the following rules apply:

(*a*) the portion of those net capital gains and net capital losses that is in respect of capital gains and losses from dispositions of property that occurred before 28 February 2000 is deemed to be that proportion of the net capital gains or net capital losses respectively that the number of days that are in the year and before 28 February 2000 is of the number of days that are in the year;

(*b*) the portion of those net capital gains and net capital losses that is in respect of capital gains and losses from dispositions of property that occurred in the year and in the period that began on 28 February 2000 and ended on 17 October 2000 is deemed to be that proportion of the net capital gains or net capital losses respectively that the number of days that are in the year and in that period is of the number of days that are in the year; and

(*c*) the portion of those net capital gains and net capital losses that is in respect of capital gains and losses from dispositions of property that occurred in the year and in the period that began on 18 October 2000 and ended at the end of the year, is deemed to be that proportion of the net capital gains or net capital losses respectively that the number of days that are in the year and in that period is of the number of days that are in the year.

In the first paragraph,

(*a*) the net capital gains of the corporation from dispositions of property in the year is the amount by which the corporation's capital gains from dispositions of property in the year exceeds the corporation's capital losses from dispositions of property in the year; and

(*b*) the net capital losses of the corporation from dispositions of property in the year is the amount by which the corporation's capital losses from dispositions of property in the year exceeds the corporation's capital gains from dispositions of property in the year."

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

295. (1) The said Act is amended by inserting the following section after section 1120.0.1:

"**1120.0.2.** A trust is deemed to be a mutual fund trust throughout a calendar year where

(*a*) at any time in the year, the trust would, but for this section, have ceased to be a mutual fund trust

i. because the condition described in paragraph *a* of section 649 ceased to be satisfied,

ii. because of the application of paragraph *c* of section 1120, or

iii. because the trust ceased to exist;

(*b*) the trust was a mutual fund trust at the beginning of the year; and

(*c*) the trust would, throughout the portion of the year throughout which it was in existence, have been a mutual fund trust if

i. in the case where the condition described in paragraph *a* of section 649 was satisfied at any time in the year, that condition was satisfied throughout the year,

ii. section 1120 were read without reference to paragraph *c* thereof, and

iii. this Book were read without reference to this section."

(2) Subsection 1 applies from the taxation year 1990.

296. (1) Section 1159.3 of the said Act, amended by section 133 of chapter 9 of the statutes of 2002, is again amended by striking out "to insure its members in respect of professional liability," in subparagraph *d*.1 of the first paragraph and subparagraph *e* of the second paragraph.

(2) Subsection 1 has effect from 21 June 2001.

ACT RESPECTING THE MINISTÈRE DU REVENU

297. The Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is amended by inserting the following section after section 39.1:

"**39.2.** Where a person has not provided access, assistance, information, documents or things even if the person is required to do so under section 38 or 39, the Minister may make an application to a judge of the Court of Québec acting in chambers and that judge may, notwithstanding section 61.1, order the person to provide the access, assistance, information, documents or things to the Minister or make such order as the judge deems proper in order to remedy the failure which is the subject of the application if the judge is satisfied that

(*a*) the person was required under section 38 or 39 to provide the access, assistance, information, documents or things and did not do so; and

(*b*) professional secrecy within the meaning of sections 46 to 53.1 may not be invoked.

A notice shall be served on the person concerned at least five days before the application is heard.

An order may be appealed from to the Court of Appeal with leave of a judge of that court. However, an appeal does not suspend the execution of the order unless the judge seized of the appeal decides otherwise. The judgment is without appeal."

298. Section 59 of the said Act is amended by replacing "is liable to a fine" in the English text of the second paragraph by "incurs a penalty".

299. Section 59.2 of the said Act, amended by section 327 of chapter 40 of the statutes of 2002, is again amended by replacing the fifth paragraph by the following paragraph:

"Notwithstanding the second paragraph, a corporation referred to in the sixth paragraph shall not incur, under this section, in respect of an amount it is required to remit in a taxation year under subparagraph *a* of the first paragraph of section 34.0.0.0.1 of the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5), a penalty greater than the penalty it would incur, in respect of that amount, if it were a qualified corporation for the year, for the purposes of Title VII.2.4 of Book IV of Part I of the Taxation Act."

300. Section 61.2 of the said Act is amended by replacing "61.1" by "39.2 or 61.1".

301. (1) The said Act is amended by inserting the following sections after section 93.1.15:

"**93.1.15.1.** Notwithstanding subparagraph *a* or *b* of the first paragraph of section 93.1.15 and section 93.1.23, no appeal may be brought from a decision refusing registration as a charitable organization or refusing to designate a registered charity, within the meaning of section 1 of the Taxation Act (chapter I-3) or from a decision revoking such a registration where the applicant or the charity is the subject of a certificate referred to in subsection 3 of section 168 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

"**93.1.15.2.** An appeal may be brought before the Court of Québec from the determination of the fair market value of a property disposed of by a taxpayer, where the fair market value has been confirmed or redetermined by the Minister of the Environment under section 710.2.4 or 752.0.10.4.0.4 of the Taxation Act (chapter I-3).

The appeal must be brought within 90 days after the day on which the Minister of the Environment has issued, under section 710.2.5 or 752.0.10.4.0.5 of the Taxation Act, the certificate confirming or redetermining the fair market value of the property."

(2) Subsection 1, where it enacts section 93.1.15.1 of the said Act, has effect from 24 December 2001.

(3) Subsection 1, where it enacts section 93.1.15.2 of the said Act, applies in respect of gifts made after 27 February 2000. However, where section 93.1.15.2 applies in respect of certificates issued before 3 July 2003, the second paragraph thereof shall be read as follows:

"The appeal must be brought within 90 days after 3 July 2003."

302. (1) The said Act is amended by inserting the following section after section 93.1.21:

"**93.1.21.1.** In the course of an appeal brought under section 93.1.15.2, the Court may confirm or vary the amount determined to be the fair market value of a property. The amount determined by the Court is deemed to be the fair market value of the property determined by the Minister of the Environment."

(2) Subsection 1 applies in respect of gifts made after 27 February 2000.

ACT RESPECTING LABOUR STANDARDS

303. (1) Section 39.0.1 of the Act respecting labour standards (R.S.Q., chapter N-1.1), amended by section 144 of chapter 9 of the statutes of 2002, is again amended by replacing "section 43.3" in the definition of "remuneration" in the first paragraph by "sections 43.3 and 58.0.1".

(2) Subsection 1 has effect from 28 February 2000.

ACT RESPECTING THE RÉGIE DE L'ASSURANCE MALADIE DU QUÉBEC

304. (1) Section 33 of the Act respecting the Régie de l'assurance maladie du Québec (R.S.Q., chapter R-5), amended by section 145 of chapter 9 of the statutes of 2002 and by section 328 of chapter 40 of the statutes of 2002, is again amended by replacing "section 43.3" in the definition of "wages" in the first paragraph by "sections 43.3 and 58.0.1".

(2) Subsection 1 has effect from 28 February 2000.

ACT RESPECTING THE QUÉBEC PENSION PLAN

305. (1) Section 45 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is amended by inserting the following subparagraph after subparagraph *c* of the fourth paragraph:

"(*c*.1) section 58.0.1;".

(2) Subsection 1 has effect from 28 February 2000.

306. Section 84 of the said Act is amended by replacing "he is not liable to" by "the person does not incur".

ACT RESPECTING THE QUÉBEC SALES TAX

307. (1) Section 1 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1), amended by section 151 of chapter 9 of the statutes of 2002, by section 344 of chapter 40 of the statutes of 2002 and by section 621 of chapter 45 of the statutes of 2002, is again amended

(1) by inserting ", Nunavut" after "Yukon Territory" in the definition of "insurer";

(2) by inserting "Nunavut" after "Yukon Territory," in the definition of "cooperative housing corporation";

(3) by inserting ", Nunavut" after "Yukon Territory" in the definition of "government";

(4) by inserting ", Nunavut" after "Yukon Territory" in the definition of "listed financial institution";

(5) by replacing subparagraphs i and ii of subparagraph *b* of paragraph 10 in the definition of "financial service" by the following subparagraphs:

"i. the service is supplied by an insurer or by a person who is licensed under the laws of Québec, another province, the Northwest Territories, the Yukon Territory or Nunavut to provide such a service, or

"ii. the service is supplied to an insurer or a group of insurers by a person who would be required to be so licensed but for the fact that the person is relieved from that requirement under the laws of Québec, another province, the Northwest Territories, the Yukon Territory or Nunavut;".

(2) Subsection 1 has effect from 1 April 1999.

308. (1) The heading of subdivision 3 of Division I of Chapter II of Title I of the said Act is replaced by the following heading:

"§3. — *Taxable supply made outside Québec or by a non-resident person who is not registered and other supplies"*.

(2) Subsection 1 has effect from 1 January 2001.

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

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

"**18.** Every recipient of a taxable supply, except a zero-rated supply, other than the zero-rated supply included in any of sections 179.1, 179.2 and 191.3.2, or a supply included in section 18.0.1, shall pay to the Minister a tax in respect of the supply calculated at the rate of 7.5% on the value of the consideration for the supply if the supply is";

(2) by adding the following paragraphs after paragraph 6:

"(7) a supply of property that is a zero-rated supply only because it is included in section 179.1, if the recipient is not acquiring the property for consumption, use or supply exclusively in the course of commercial activities of the recipient and

(*a*) an authorization granted to the recipient to use the certificate referred to in that section is not in effect at the time the supply is made, or

(*b*) the recipient does not ship the property outside Québec in the circumstances described in paragraphs 2 to 4 of section 179; or

"(8) a supply of property that is a zero-rated supply only because it is included in section 179.2, if the recipient is not acquiring the property for consumption, use or supply exclusively in the course of commercial activities of the recipient and

(*a*) an authorization granted to the recipient to use the certificate referred to in that section is not in effect at the time the supply is made, or

(*b*) the recipient is not acquiring the property for use or supply as domestic inventory or as added property, as those expressions are defined in section 350.23.1."

(2) Subsection 1 applies in respect of supplies made after 31 December 2000.

310. (1) Section 22.2 of the said Act is amended by inserting the following paragraph after paragraph 2 in the definition of "province":

"(2.1) Nunavut;".

(2) Subsection 1 has effect from 1 April 1999.

311. (1) Section 52 of the said Act is amended

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

"**52.** For the purposes of this section, "provincial levy" means a duty, fee or tax imposed under an Act of the legislature of Québec, another province, the Northwest Territories, the Yukon Territory or Nunavut in respect of the supply, consumption or use of property or a service.";

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

"(3) any other amount that is collectible by the supplier under an Act of the legislature of Québec, another province, the Northwest Territories, the Yukon

Territory or Nunavut that is equal to, or is collectible on account of or in lieu of, a provincial levy, except where the amount is payable by the recipient and the provincial levy is a prescribed duty, fee or tax."

(2) Subsection 1 has effect from 1 April 1999.

312. (1) Section 81 of the said Act is amended

(1) by replacing paragraph 2.1 by the following paragraph:

"(2.1) goods from Canada outside Québec that are for the domestic or personal use of an individual arriving in Québec to take up permanent residence, except goods acquired by the individual less than 31 days before the individual's arrival in Québec and in respect of which the individual has not paid tax of the same nature as the tax payable under this Title, imposed by another province, the Northwest Territories, the Yukon Territory or Nunavut, or in respect of which the individual has obtained or is entitled to obtain a rebate of such a tax;";

(2) by inserting the following paragraph after paragraph 6:

"(6.1) goods that are brought into Québec solely for the purpose of fulfilling an obligation under a warranty to repair or replace the goods if defective, where replacement goods are supplied for no additional consideration, other than shipping and handling charges, and shipped outside Québec without being consumed or used in Québec except to the extent reasonably necessary or incidental to the transportation of the goods;".

(2) Paragraph 1 of subsection 1 has effect from 1 April 1999.

(3) Paragraph 2 of subsection 1 applies in respect of goods brought into Québec after 28 February 2000.

313. (1) Section 90 of the said Act is amended by inserting ", Nunavut" after "Yukon Territory".

(2) Subsection 1 has effect from 1 April 1999.

314. (1) Section 94 of the said Act is replaced by the following section:

"**94.** A supply by way of sale of a residential complex or an interest in a residential complex made by a person who is not a builder of the complex or, if the residential complex is a multiple unit residential complex, an addition to the complex, is exempt, unless

(1) the person claimed an input tax refund in respect of the last acquisition by the person of the residential complex or in respect of an improvement to the complex acquired or brought into Québec by the person after the complex was last acquired by the person; or

(2) the recipient is registered under Division I of Chapter VIII and

(*a*) the recipient made a taxable supply by way of sale (in this section referred to as the "prior supply") of the residential complex or interest in that complex to a prior recipient who is the person or, if the person is a personal trust other than a testamentary trust, the settlor of the trust or, in the case of a testamentary trust that arose as a result of the death of an individual, the deceased individual,

(*b*) the prior supply is the last supply by way of sale of the residential complex or interest to the prior recipient,

(*c*) the supply is not made more than one year after the day that is the day on which the prior recipient acquired the interest, or that is the earlier of the day on which the prior recipient acquired ownership of the residential complex and the day on which the prior recipient acquired possession of the complex, under the agreement for the prior supply,

(*d*) the residential complex has not been occupied as a place of residence or lodging after the construction or last substantial renovation of the complex was substantially completed,

(*e*) the supply is made pursuant to a right or obligation of the recipient to purchase the residential complex or interest that is provided for under the agreement for the prior supply, and

(*f*) the recipient makes an election under this section jointly with the person in prescribed form containing prescribed information that is filed with the Minister with the recipient's return in which the recipient is required to report the tax in respect of the supply."

(2) Subsection 1 applies in respect of supplies made after 4 October 2000.

315. (1) Section 102 of the said Act is amended

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

"(1) a supply of an immovable that is, immediately before the time ownership or possession of the property is transferred to the recipient of the supply under the agreement for the supply, capital property used primarily

(*a*) in a business carried on by the individual or trust with a reasonable expectation of profit, or

(*b*) where the individual or trust is a registrant,

i. in making a taxable supply of the immovable by way of lease, licence or similar arrangement, or

ii. in any combination of the uses described in subparagraph *a* and subparagraph i;";

(2) by replacing subparagraph 4 of the first paragraph by the following subparagraph:

"(4) a supply of a residential complex or an interest in a residential complex; or";

(3) by adding the following subparagraph after subparagraph 4 of the first paragraph:

"(5) a particular supply to a recipient who is registered under Division I of Chapter VIII and who has made an election under this subparagraph jointly with the individual or trust in prescribed form containing prescribed information and filed with the Minister with the recipient's return in which the recipient is required to report the tax in respect of the supply, if

(*a*) the recipient made a taxable supply by way of sale (in this section referred to as the "prior supply") of the immovable to a person (in this section referred to as the "prior recipient") who is the individual, trust or settlor of the trust and that supply is the last supply by way of sale of the immovable to the prior recipient,

(*b*) the day the particular supply is made is not more than one year after the particular day that is the earlier of the day on which, under the agreement for the prior supply, the prior recipient acquired ownership of the immovable and the day the prior recipient acquired possession of the immovable, and

(*c*) the particular supply is made pursuant to a right or obligation of the recipient to purchase the immovable that is provided for under the agreement for the prior supply."

(2) Subsection 1 applies in respect of supplies by way of sale made after 4 October 2000.

316. (1) Section 108 of the said Act is amended

(1) by replacing the definition of "medical practitioner" by the following definition:

""medical practitioner" means a physician within the meaning of the Medical Act (chapter M-9) or a dentist within the meaning of the Dental Act (chapter D-3) and includes a person who is entitled under the laws of another province, the Northwest Territories, the Yukon Territory or Nunavut to practise the profession of medicine or dentistry;";

(2) by replacing paragraph 2 of the definition of "practitioner" by the following paragraph:

"(2) where the person is not required to be so licensed or otherwise authorized, has qualifications equivalent to those necessary to be licensed or otherwise authorized to practise in another province, the Northwest Territories, the Yukon Territory or Nunavut."

(2) Subsection 1 has effect from 1 April 1999.

317. (1) Section 116 of the said Act is replaced by the following section:

"**116.** A supply, other than a zero-rated supply, of any property or service is exempt to the extent that the consideration for the supply is payable or reimbursed by the Government of Québec pursuant to the Health Insurance Act (chapter A-29) or the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5) or by the government of another province, the Northwest Territories, the Yukon Territory or Nunavut under a health care plan established for the insured persons of that province or territory under an Act of the legislature of that province or territory."

(2) Subsection 1 has effect from 1 April 1999.

318. (1) Section 127 of the said Act is replaced by the following section:

"**127.** A supply, other than a zero-rated supply, made by a government, school authority, vocational school, public college or university that consists in providing an individual with, or administering an examination in respect of, an educational service leading to a certificate, diploma, permit or similar document, or a class or rating in respect of a licence or permit, that attests to the competence of an individual to practise a trade or vocation is exempt.

This section does not apply where the supplier has made an election under this section in prescribed form containing prescribed information."

(2) Subsection 1 applies in respect of supplies

(1) for which all of the consideration becomes due after 4 October 2000 or is paid after that date without having become due; and

(2) for which consideration becomes due or is paid before 5 October 2000 if no amount was charged or collected as or on account of tax under Title I of the said Act before that day. However, in respect of that supply, section 127 of the said Act shall be read as follows:

"**127.** A supply, other than a zero-rated supply, made by a government, school authority, vocational school, public college or university that consists in providing an individual with, or administering an examination in respect of, an educational service leading to a certificate, diploma, permit or similar document, or a class or rating in respect of a licence or permit, that attests to the competence of an individual to practise a trade or vocation is exempt."

319. (1) Section 138.1 of the said Act is amended

(1) by replacing paragraphs 2 and 3 by the following paragraphs:

"(2) property or a service, other than a supply that is deemed to have been made under section 60 or that is deemed only under section 32.2 or section 32.3 to have been made, where the supply is deemed under this Title to have been made by the charity;

"(3) movable property, other than property that was acquired, manufactured or produced by the charity for the purpose of making a supply by way of sale of the property and property supplied by way of lease, licence or similar arrangement in conjunction with an exempt supply by way of lease, licence or similar arrangement by the charity of immovable property, where, immediately before the time tax would first become payable in respect of the supply if it were a taxable supply, that property is used, otherwise than in making the supply, in commercial activities of the charity or, in the case of capital property, primarily in such activities;";

(2) by replacing paragraph 12 by the following paragraph:

"(12) an immovable where the supply is made by way of sale and, immediately before the time tax would first become payable in respect of the supply if it were a taxable supply, the immovable is used, otherwise than in making the supply, primarily in commercial activities of the charity; or".

(2) Paragraph 1 of subsection 1, where it replaces paragraph 2 of section 138.1 of the said Act, applies in respect of supplies that are deemed to have been made under section 32.2 or section 32.3 of the said Act for lease intervals or billing periods beginning after 31 March 1997.

(3) Paragraph 1 of subsection 1, where it replaces paragraph 3 of section 138.1 of the said Act, and paragraph 2 of subsection 1 apply in respect of supplies for which consideration becomes due after 31 December 1996 or is paid after 31 December 1996 without having become due. However, they do not apply to any supply in respect of which an amount was charged or collected as or on account of tax under Title I of the said Act before 5 October 2000.

(4) Where, before 1 January 1997, a charity was using capital property of the charity in making taxable supplies by way of lease, licence or similar arrangement of immovable property, or of movable property in conjunction with supplies of immovable property, referred to in paragraph 6 of section 141 or paragraph 6 or 8 of section 168 of the said Act, as those paragraphs read before 1 January 1997, and because of the coming into force of section 138.1 of the said Act, as amended by paragraph 1 of subsection 1, where it replaces paragraph 3 of section 138.1 of the said Act, and by paragraph 2 of subsection 1, the charity is considered to have, at a particular time, ceased to use the capital property, or reduced the extent to which the capital property is used, in

commercial activities of the charity, upon beginning to use the property for the purpose of making the charity's first exempt supply by way of lease, licence or similar arrangement of immovable property, or of movable property in conjunction with a supply of immovable property, referred to in section 138.1 of the said Act that would have been a taxable supply referred to in paragraph 6 of section 141 or paragraph 6 or 8 of section 168 of the said Act, as those paragraphs read before 1 January 1997, if Division VI of Chapter III of Title I of the said Act had continued to apply to charities, and is deemed under any of sections 243, 258 and 259 of the said Act to have made, immediately before the particular time, a supply of the capital property, or a portion of it, and to have collected tax in respect of that supply, the following rules apply:

(1) the charity is not required to include that tax in determining the net tax for any reporting period of the charity; and

(2) the charity is deemed, for the purpose of determining the basic tax content of the capital property, to have been entitled to recover an amount equal to the tax as a rebate of tax referred to in the description of A of the formula in the definition of "basic tax content" in section 1 of the said Act.

320. (1) Section 141 of the said Act is amended by replacing paragraph 2 by the following paragraph:

"(2) property or a service, other than a supply that is deemed only under section 32.2 or section 32.3 to have been made, where the supply is deemed under this Title to have been made by the institution;".

(2) Subsection 1 applies in respect of supplies that are deemed to have been made under section 32.2 or section 32.3 of the said Act for lease intervals or billing periods beginning after 31 March 1997.

321. (1) Section 168 of the said Act is amended by replacing paragraph 2 by the following paragraph:

"(2) an immovable, other than a supply that is deemed only under section 32.2 to have been made, where the supply is deemed under this Title to have been made;".

(2) Subsection 1 applies in respect of supplies that are deemed to have been made under section 32.2 of the said Act for lease intervals beginning after 31 March 1997.

322. (1) Section 173 of the said Act is amended

(1) by replacing the definition of "medical practitioner" by the following definition:

""medical practitioner" means a physician within the meaning of the Medical Act (chapter M-9) or a dentist within the meaning of the Dental Act (chapter

D-3) and includes a person who is entitled under the laws of another province, the Northwest Territories, the Yukon Territory or Nunavut to practise the profession of medicine or dentistry;";

(2) by replacing the definition of "pharmacist" by the following definition:

""pharmacist" has the meaning assigned by the Pharmacy Act (chapter P-10) and includes a person who is entitled under the laws of another province, the Northwest Territories, the Yukon Territory or Nunavut to practise the profession of pharmacy;".

(2) Subsection 1 has effect from 1 April 1999.

323. (1) Section 175 of the said Act is replaced by the following section:

"**175.** For the purposes of this division, "medical practitioner" means a physician within the meaning of the Medical Act (chapter M-9) and includes a person who is entitled under the laws of another province, the Northwest Territories, the Yukon Territory or Nunavut to practise the profession of medicine."

(2) Subsection 1 has effect from 1 April 1999.

324. (1) Section 176 of the said Act is amended by replacing paragraph 8 by the following paragraph:

"(8) a supply of ophthalmic lenses, with or without frames, when the lenses are, or are to be, supplied on the written order of an eye-care professional for the correction or treatment of a defect of vision of the consumer named in the order, where the eye-care professional is entitled under the laws of Québec, another province, the Northwest Territories, the Yukon Territory or Nunavut in which the professional practises to prescribe lenses for such purpose;".

(2) Subsection 1 has effect from 1 April 1999. However, where paragraph 8 of section 176 of the said Act applies in respect of supplies made before 9 October 1999, it shall be read without reference to ", or are to be,".

325. (1) Section 179 of the said Act is amended by replacing paragraph 5 by the following paragraph:

"(5) the person maintains evidence satisfactory to the Minister of the shipment of the property outside Québec by the recipient."

(2) Subsection 1 applies in respect of supplies made after 31 December 2000.

326. (1) The said Act is amended by inserting the following sections after section 179:

"**179.1.** A supply made by way of sale to a recipient, other than a consumer, who is registered under Division I of Chapter VIII of movable corporeal property, other than property referred to in the third paragraph, is a zero-rated supply where the recipient provides the supplier with a shipping certificate, within the meaning of section 427.3, certifying that an authorization to use the certificate granted to the recipient under that section is in effect at the time the supply is made, and discloses to the supplier the number referred to in section 427.5 and the expiry date of the authorization.

The first paragraph does not apply where an authorization granted by the Minister to use the certificate is not in effect at the time the supply is made or the recipient does not ship the property outside Québec in the circumstances described in paragraphs 2 to 4 of section 179, unless the supplier did not know and could not reasonably be expected to have known, at or before the latest time at which tax in respect of the supply would have become payable if the supply were not a zero-rated supply, that the authorization was not in effect at the time the supply was made or that the recipient would not so ship the property outside Québec.

The property to which the first paragraph refers is

(1) goods on which a duty of excise is imposed under the Excise Act (Revised Statutes of Canada, 1985, chapter E-14) or would be imposed under that Act if the goods were manufactured or produced in Canada; or

(2) a continuous transmission commodity that must be transported by or on behalf of the recipient by means of a wire, pipeline or other conduit.

"**179.2.** A supply made by way of sale to a recipient who is registered under Division I of Chapter VIII of property, other than property referred to in the third paragraph, is a zero-rated supply where

(1) the recipient provides the supplier with a shipping distribution centre certificate, within the meaning of section 350.23.7, certifying that an authorization to use the certificate granted to the recipient under that section is in effect at the time the supply is made and that the property is being acquired for use or supply as domestic inventory or as added property of the recipient, within the meaning assigned to those expressions by section 350.23.1, and discloses to the supplier the number referred to in section 350.23.9 and the expiry date of the authorization; and

(2) the total amount, included in a single invoice or agreement, of the consideration for that supply and for all other supplies that are made to the recipient and are otherwise included in this section is at least $1,000.

The first paragraph does not apply where an authorization granted by the Minister to use the certificate is not in effect at the time the supply is made or the recipient is not acquiring the property for use or supply as domestic inventory or as added property in the course of commercial activities of the

recipient, unless the supplier did not know and could not reasonably be expected to have known, at or before the latest time at which tax in respect of the supply would have become payable if the supply were not a zero-rated supply, that the authorization was not in effect at the time the supply was made or that the recipient was not acquiring the property for that purpose.

The property to which the first paragraph refers is

(1) goods on which a duty of excise is imposed under the Excise Act (Revised Statutes of Canada, 1985, chapter E-14) or would be imposed under that Act if the goods were manufactured or produced in Canada; or

(2) a continuous transmission commodity that must be transported by or on behalf of the recipient by means of a wire, pipeline or other conduit."

(2) Subsection 1 applies in respect of supplies made after 31 December 2000. However, as regards any supply in respect of which the recipient provides a shipping certificate, within the meaning of section 427.3 of the said Act, where the authorization to use the certificate is in effect at the time the supply is made but was granted before 1 January 2001 and not renewed before the supply is made, or was last renewed before 1 January 2001, section 179.1 of the said Act shall be read without reference to ", and discloses to the supplier the number referred to in section 427.5 and the expiry date of the authorization" in the first paragraph.

327. (1) Section 180 of the said Act is amended by inserting ", Nunavut" after "Yukon Territory" in paragraph 2.

(2) Subsection 1 has effect from 1 April 1999.

328. (1) Section 234.1 of the said Act is amended by inserting "Nunavut," after "Yukon Territory,".

(2) Subsection 1 has effect from 1 April 1999.

329. (1) Section 297.0.1 of the said Act is amended by inserting ", of Nunavut" after "Yukon Territory" in subparagraph *b* of subparagraph 1 of the first paragraph.

(2) Subsection 1 has effect from 1 April 1999.

330. (1) Section 310 of the said Act is amended by inserting ", Nunavut," after "Yukon Territory" in paragraph 1 of the definition of "receiver" in the second paragraph.

(2) Subsection 1 has effect from 1 April 1999.

331. (1) Section 324.5 of the said Act is amended by inserting "Nunavut," after "Yukon Territory," in subparagraph 1 of the first paragraph.

(2) Subsection 1 has effect from 1 April 1999.

332. (1) Section 324.5.1 of the said Act is amended by inserting "Nunavut," after "Yukon Territory," in subparagraph 1 of the first paragraph.

(2) Subsection 1 has effect from 1 April 1999.

333. (1) Section 327.2 of the said Act is amended by replacing the second paragraph by the following paragraph:

"Where the first paragraph applies, except in the case of a supply of a service of shipping the property, any supply made by the registrant and referred to in subparagraph *a* of subparagraph 1 of that paragraph is deemed to have been made outside Québec."

(2) Subsection 1 applies in respect of supplies for which all of the consideration becomes due after 28 February 2000 or is paid after that date without having become due.

334. (1) Section 327.3 of the said Act is amended

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

"Where the first paragraph applies, except in the case of a supply of a service of shipping the property, any supply made by the registrant and referred to in subparagraph 1 of that paragraph is deemed to have been made outside Québec.";

(2) by adding the following paragraph after the second paragraph:

"For the purposes of subparagraph iii of subparagraph *b* of subparagraph 3 of the first paragraph, if the only use of railway rolling stock after physical possession of it is transferred as described in that subparagraph iii and before it is next shipped outside Québec is for the purpose of transporting corporeal movable property or passengers in the course of its shipment outside Québec and that shipment occurs within 60 days after the day on which the transfer takes place, that use of the rolling stock is deemed to take place entirely outside Québec."

(2) Paragraph 1 of subsection 1 applies in respect of supplies for which all of the consideration becomes due after 28 February 2000 or is paid after that date without having become due.

(3) Paragraph 2 of subsection 1 applies in respect of railway rolling stock the physical possession of which is transferred by a registrant pursuant to a supply by way of sale by the registrant for which all of the consideration becomes due after 28 February 2000 or is paid after that date without having become due.

335. (1) The said Act is amended by inserting the following after section 350.23:

"DIVISION XVIII.1

"SHIPPING DISTRIBUTION CENTRE

"**350.23.1.** For the purposes of this division,

"added property" that is in the possession of a person means corporeal movable property or software that the person incorporates into, attaches to, combines or assembles with, or uses to pack, other property that is not property of the person held otherwise than for sale by the person;

"base value" of property that a person brings into Québec or obtains physical possession of in Québec means

(1) if the person brings the property into Québec, the value of the property within the meaning of the second paragraph of section 17, or within the meaning that would be assigned by that paragraph but for the third paragraph of that section; and

(2) in any other case, the fair market value of the property at the time the person obtains physical possession of it in Québec;

"basic service" means any of the following services performed at any time in respect of goods, to the extent that, if the goods were held in a bonded warehouse at that time, it would be feasible, given the stage of processing of the goods at that time, to perform that service in the bonded warehouse and it would be permissible to do so according to the Customs Bonded Warehouses Regulations made under the Customs Tariff (Revised Statutes of Canada, 1985, chapter 41, 3rd Supplement):

(1) disassembling or reassembling, if the goods have been assembled or disassembled for packing, handling or transportation purposes;

(2) displaying;

(3) inspecting;

(4) labelling;

(5) packing;

(6) removing, for the sole purpose of soliciting orders for goods or services, a small quantity of material, or a portion, a piece or an individual object, that represents the goods;

(7) storing;

(8) testing; or

(9) any of the following that do not materially alter the characteristics of the goods:

(*a*) cleaning,

(*b*) complying with any applicable law of Canada or of Québec,

(*c*) diluting,

(*d*) normal maintenance and servicing,

(*e*) preserving,

(*f*) separating defective goods from prime quality goods,

(*g*) sorting or grading, and

(*h*) trimming, filing, slitting or cutting;

"customer's good" in respect of a particular person means corporeal movable property of another person that the particular person brings into Québec, or obtains physical possession of in Québec, for the purpose of supplying a service or added property in respect of the corporeal movable property;

"domestic inventory" of a person means corporeal movable property that the person acquires in Québec or brings into Québec, for the purpose of selling the property separately for consideration in the ordinary course of a business carried on by the person;

"finished inventory" of a person means property of the person, other than capital property of the person, that is in the state at which it is intended to be sold by the person, or to be used by the person as added property, in the course of a business carried on by the person;

"fiscal year" of a person has the meaning assigned by section 458.1;

"labelling" includes marking, tagging and ticketing;

"packing" includes unpacking, repacking, packaging and repackaging;

"processing" includes adjusting, altering, assembling and a basic service;

"shipping revenue" of a particular person for a fiscal year means the total of all amounts each of which is consideration, included in determining the specified total revenue of the person for the fiscal year, for

(1) a supply by way of sale of an item of domestic inventory of the person that is made outside Québec or referred to in Division V of Chapter IV, other than a supply referred to in any of sections 180.1, 181, 189, 191.2 and 191.3.1;

(2) a supply by way of sale of added property acquired by the person for the purpose of processing in Québec property where that property, or the product resulting from that processing, as the case may be, is shipped outside Québec, after that processing is complete, without being consumed, used, transformed or further processed, manufactured or produced in Québec by another person except to the extent reasonably necessary or incidental to the transportation of that property or that product; or

(3) a supply of a service of processing, storing or distributing corporeal movable property of another person if the property, or all the products resulting from that processing, as the case may be, are shipped outside Québec, after the processing in Québec, if any, by the particular person is complete, without being consumed, used, transformed or further processed, manufactured or produced in Québec by any other person except to the extent reasonably necessary or incidental to the transportation of that property or those products;

"shipping revenue percentage" of a person for a fiscal year means the proportion expressed as a percentage that the person's shipping revenue for the fiscal year is of the person's specified total revenue for the fiscal year;

"specified total revenue" of a person for a fiscal year means the total of all amounts each of which is consideration, included in determining the income from a business of the person for the fiscal year, for a supply made by the person, or that would be made by the person but for any provision of this Title that deems the supply to be made by another person, other than

(1) a supply of a service in respect of property that the person neither brings into Québec nor obtains physical possession of in Québec for the purpose of providing the service;

(2) a supply by way of sale of property that the person acquired for the purpose of selling it, or selling other property to which the property has been added or with which the property has been combined, for consideration but that is neither acquired in Québec nor brought into Québec by the person;

(3) a supply by way of sale of added property that the person acquired for the purpose of processing corporeal movable property that the person neither brings into Québec nor obtains physical possession of in Québec; and

(4) a supply by way of sale of capital property of the person;

"substantial alteration of property" by a person, in a fiscal year of the person, means

(1) manufacturing or producing, or engaging another person to manufacture or produce, property other than capital property of the person at any time in the fiscal year in the course of a business carried on by the person; or

(2) any processing undertaken by or for the person during the fiscal year to bring property of the person to a state at which the property or the product of that processing is finished inventory of the person, if

(*a*) the person's percentage value added attributable to non-basic services in respect of finished inventory of the person for the fiscal year exceeds 10%, and

(*b*) the person's percentage total value added in respect of finished inventory of the person for the fiscal year exceeds 20%.

"**350.23.2.** A person's percentage value added attributable to non-basic services in respect of finished inventory of the person for a fiscal year of the person is the amount, expressed as a percentage, determined by the formula

A/B.

For the purposes of the formula,

(1) A is the total of all amounts each of which is

(*a*) part of the total cost to the person of all property that was finished inventory of the person supplied, or used as added property, by the person during the fiscal year, and

(*b*) reasonably attributable to

i. salary, wages or other remuneration paid or payable to employees of the person, excluding any amounts that are reasonably attributable to the performance of basic services, or

ii. consideration paid or payable by the person to engage other persons to perform processing, excluding any portion of such consideration that is reasonably attributed by the other persons to corporeal movable property supplied in connection with that processing or that is reasonably attributable to the performance of basic services; and

(2) B is the total cost to the person of the property.

"**350.23.3.** A person's percentage total value added in respect of finished inventory of the person for a fiscal year of the person is the amount expressed as a percentage that would be determined for the fiscal year by the formula in section 350.23.2 if the total determined under subparagraph 1 of the second paragraph of that section did not exclude any amounts that are reasonably attributable to the performance of basic services.

"**350.23.4.** A person's percentage value added attributable to non-basic services in respect of customers' goods for a fiscal year of the person is the amount, expressed as a percentage, determined by the formula

A/(A + B).

For the purposes of the formula,

(1) A is the total of all consideration, included in determining the income from a business of the person for the fiscal year, for supplies of services, or of added property, in respect of customers' goods, other than the portion of such consideration that is reasonably attributable to the performance of basic services or to the provision of added property used in the performance of basic services; and

(2) B is the total of the base values of the customers' goods.

"**350.23.5.** A person's percentage total value added in respect of customers' goods for a fiscal year of the person is the amount expressed as a percentage that would be determined for the fiscal year by the formula in section 350.23.4 if the total determined under subparagraph 1 of the second paragraph of that section did not exclude any amounts that are reasonably attributable to the performance of basic services or the provision of added property used in the performance of basic services.

"**350.23.6.** For the purpose of determining a particular person's shipping revenue percentage or an amount under any of sections 350.23.2 to 350.23.5 in respect of finished inventory of a particular person or customers' goods in respect of a particular person, the following rules apply if a supply between the particular person and another person with whom the particular person is not dealing at arm's length is made for no consideration or for less than fair market value and any consideration for the supply would be included in determining the income from a business of the particular person for a year:

(1) the supply is deemed to have been made for consideration equal to fair market value; and

(2) that consideration is deemed to be included in determining that income.

"**350.23.7.** The Minister may, on the application of a person who is registered under Division I of Chapter VIII and who is engaged exclusively in commercial activities, authorize the person to use, beginning on a day in a fiscal year of the person and subject to such conditions as the Minister may from time to time specify, a certificate (in this division referred to as a "shipping distribution centre certificate") for the purposes of section 179.2, if it can reasonably be expected that

(1) the person will not engage in the substantial alteration of property in the fiscal year;

(2) either the person's percentage value added attributable to non-basic services in respect of customers' goods for the fiscal year will not exceed 10% or the person's percentage total value added in respect of customers' goods for the fiscal year will not exceed 20%; and

(3) the person's shipping revenue percentage for the fiscal year will be at least 90%.

"**350.23.8.** An application for an authorization to use a shipping distribution centre certificate shall be made in prescribed form containing prescribed information and be filed with the Minister in prescribed manner.

"**350.23.9.** Where the Minister authorizes a person to use a shipping distribution centre certificate, the Minister shall notify the person in writing of the authorization, its effective date and its expiry date and the number assigned by the Minister that identifies the person or the authorization and that must be disclosed by the person when providing the certificate for the purposes of section 179.2.

"**350.23.10.** The Minister may revoke an authorization granted to a person under section 350.23.7, effective on a day in a fiscal year of the person (in this section referred to as the "fiscal year of the revocation"), if

(1) the person fails to comply with any condition attached to the authorization or with any provision of this Title;

(2) it can reasonably be expected that

(*a*) one or both of the conditions described in paragraphs 1 and 2 of section 350.23.7 would not be met if the fiscal year referred to in those paragraphs were the fiscal year of the revocation, or

(*b*) the person's shipping revenue percentage for the fiscal year of the revocation will be less than 80%; or

(3) the person has requested in writing that the authorization be revoked as of that day.

"**350.23.11.** Subject to section 350.23.10, an authorization granted to a person under section 350.23.7 is deemed to have been revoked effective on the day after the last day of a fiscal year of the person, if

(1) the person engaged in the substantial alteration of property in that fiscal year;

(2) the person's percentage value added attributable to non-basic services in respect of customers' goods for the fiscal year exceeds 10% and the person's percentage total value added in respect of customers' goods for the fiscal year exceeds 20%; or

(3) the person's shipping revenue percentage for the fiscal year is less than 80%.

"**350.23.12.** An authorization granted under section 350.23.7 to a person ceases to have effect immediately before the earlier of

(1) the day on which a revocation of the authorization becomes effective; and

(2) the day that is three years after the day on which the authorization became effective.

"**350.23.13.** The Minister may not grant to a person, if an authorization granted to the person under section 350.23.7 is revoked effective on a day, another authorization under that section that becomes effective before,

(1) if the authorization was revoked in circumstances described in paragraph 1 of section 350.23.10, the day that is two years after the day of the revocation; and

(2) in any other case, the first day of the second fiscal year of the person that begins after the day of the revocation."

(2) Subsection 1 has effect from 1 January 2001.

336. (1) Section 352.1 of the said Act is amended by replacing paragraph 1 by the following paragraph:

"(1) the property was acquired by the individual for the individual's personal or domestic use less than 31 days before the individual's leaving Québec to take up permanent residence in another province, the Northwest Territories, the Yukon Territory or Nunavut;".

(2) Subsection 1 has effect from 1 April 1999.

337. (1) Section 360.5 of the said Act is replaced by the following section:

"**360.5.** For the purposes of section 362 and subdivisions II, II.1 and II.3, "single unit residential complex" includes

(1) a multiple unit residential complex that contains no more than two residential units; and

(2) any other multiple unit residential complex if it is described by paragraph 3 of the definition of "residential complex" in section 1 and contains one or more residential units that are for supply as rooms in an inn, a hotel, a motel, a boarding house or a lodging house or similar premises and that would be excluded from being part of the residential complex if the complex were a residential complex not described by that paragraph."

(2) Subsection 1 has effect from 1 June 1997 and applies, for the purpose of determining any rebate of an individual,

(1) under sections 362.2 to 367 and section 370 of the said Act, in respect of a residential complex the ownership of which is transferred to the individual after 31 May 1997;

(2) under sections 370.0.1 to 370.2 and section 370.4 of the said Act, in respect of a residential complex the possession of which is given to the individual after 31 May 1997; and

(3) under sections 370.9 to 370.12 of the said Act, in respect of a residential complex that the individual has constructed or substantially renovated, or has engaged another person to construct or substantially renovate, if the construction or substantial renovation is substantially completed after 31 May 1997.

(3) Where an individual would be entitled to claim a rebate under any of sections 362.2 to 367, 370, 370.0.1 to 370.2, 370.4 and 370.9 to 370.12 of the said Act in respect of a single unit residential complex described in paragraph 2 of the definition of that expression in section 360.5 of the said Act, if there were no limitation on the period for filing an application for the rebate or on the number of applications that the individual may make in respect of that matter and the day on or before which the individual would, but for this paragraph, be required to file an application for the rebate is before 31 March 2003, the following rules apply:

(1) the individual, despite sections 362.4, 370.0.3 and 370.12 of the said Act, has until 31 March 2003 to file an application for the rebate with the Minister of Revenue; and

(2) that application may, despite the second paragraph of section 403 of the said Act, be the individual's second application for the rebate if, before 1 March 2001, the individual had made an application for the rebate and it has been assessed.

338. (1) Section 362 of the said Act is replaced by the following section:

"**362.** Where a supply of a residential complex or a share in the capital stock of a cooperative housing corporation is made to two or more individuals, or where two or more individuals construct or substantially renovate, or engage another person to construct or substantially renovate, a residential complex, the references in subdivisions II to II.3 to a particular individual shall be read as references to all of those individuals as a group, but only one of those individuals may apply for a rebate under any of those subdivisions in respect of the complex or share."

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

339. (1) The said Act is amended by inserting the following after subdivision IV.1 of subdivision 3 of Division I of Chapter VII of Title I:

"IV.2 — SUPPLY OF A RESIDENTIAL COMPLEX LEASED FOR RESIDENTIAL PURPOSES

"**378.4.** For the purposes of this subdivision,

"first use", in respect of a residential unit, means the first use of the unit after the construction or last substantial renovation of the unit or, in the case of a unit that is situated in a multiple unit residential complex, of the complex or addition to the complex in which the residential unit is situated, is substantially completed;

"percentage of total floor space", in respect of a residential unit forming part of a residential complex or part of an addition to a multiple unit residential complex, means the proportion expressed as a percentage that the total square metres of floor space occupied by the unit is of the total square metres of floor space occupied by all of the residential units in the residential complex or addition, as the case may be;

"qualifying residential unit" of a person, at a particular time, means

(1) a residential unit of which, at or immediately before the particular time, the person is the owner, a co-owner, a lessee or a sub-lessee or has possession as purchaser under an agreement of purchase and sale, or a residential unit that is situated in a residential complex of which the person is, at or immediately before the particular time, a lessee or a sub-lessee, where

(*a*) at the particular time, the unit is a self-contained residence,

(*b*) the person holds the unit

i. for the purpose of making exempt supplies referred to in section 97.1, 98, 99 or 100, or

ii. where the complex in which the unit is situated includes one or more other residential units that would be qualifying residential units of the person, for use as the primary place of residence of the person,

(*c*) it is the case, or can reasonably be expected by the person at the particular time to be the case, that the first use of the unit is or will be

i. as the primary place of residence of the person, an individual who is related to the person or a former spouse of the person, or of a lessor of the complex, an individual who is related to the lessor or a former spouse of the lessor, for a period of at least one year or for a shorter period where the next use of the unit after that shorter period is as described in subparagraph ii, or

ii. as a place of residence of individuals, each of whom is given continuous occupancy of the unit, under one or more leases, for a period, throughout which the unit is used as the primary place of residence of that individual, of at least one year or for a shorter period ending when the unit is sold to a recipient who acquires the unit for use as the primary place of residence of the recipient, an individual who is related to the recipient or a former spouse of the recipient, or the unit is taken for use as the primary place of residence of the person, an individual who is related to the person or a former spouse of the person, or of a lessor of the complex, an individual who is related to the lessor or a former spouse of the lessor, and

(*d*) except where the residential unit is used, in circumstances where subparagraph ii of subparagraph *c* applies, as the primary place of residence of the person, an individual who is related to the person or a former spouse of the person, or of a lessor of the complex, an individual who is related to the lessor or a former spouse of the lessor, where, at the particular time, the person intends that, after the unit is used as described in subparagraph *c* the person will occupy it for the person's own use or the person will supply it by way of lease as a place of residence or lodging for an individual who is related to the person or a former spouse of the person, or a shareholder, member or partner of, or not dealing at arm's length with, the person, the person can reasonably expect that the unit will be the primary place of residence of the person or of that individual; or

(2) a prescribed residential unit of the person;

"self-contained residence" means a residential unit

(1) that is a room or suite in an inn, a hotel, a motel, a boarding house or a lodging house or in a residence for students, seniors, individuals with a disability or other individuals; or

(2) that contains private kitchen facilities, a private bath and a private living area.

"**378.5.** For the purposes of this subdivision, a reference to a "lease" shall be read as a reference to a "lease, licence or similar arrangement".

"**378.6.** Subject to sections 378.16 and 378.17, a person, other than a cooperative housing corporation, is entitled to a rebate as determined under section 378.7, where

(1) the person is

(*a*) the recipient of a taxable supply by way of sale (in this section and section 378.7 referred to as the "purchase from the supplier") from another person of a residential complex or of an interest in a residential complex and is not a builder of the complex, or

(*b*) a builder of a residential complex, or of an addition to a multiple unit residential complex, who makes an exempt supply by way of lease referred to in section 98 or section 99 that results in the person being deemed under any of sections 223 to 231.1 to have made and received a taxable supply by way of sale (in this section and section 378.7 referred to as the "deemed purchase") of the complex or addition;

(2) at a particular time, tax first becomes payable in respect of the purchase from the supplier or tax in respect of the deemed purchase is deemed to have been paid by the person;

(3) at the particular time, the complex or addition, as the case may be, is a qualifying residential unit of the person or includes one or more qualifying residential units of the person; and

(4) the person is not entitled to include the tax in respect of the purchase from the supplier, or the tax in respect of the deemed purchase, in determining an input tax refund of the person.

"**378.7.** For the purposes of section 378.6, the rebate to which the person is entitled is equal to the total of all amounts each of which is an amount, in respect of a residential unit that forms part of the residential complex or addition, as the case may be, and is a qualifying residential unit of the person at the particular time, determined by the formula

$$[A \times (\$225{,}000 - B) / \$25{,}000] + C.$$

For the purposes of the formula in the first paragraph,

(1) A is the lesser of $5,642 and the amount determined by the formula

$$36\% \times [(A_1 \times A_2) - D];$$

(2) B is the greater of $200,000 and

(*a*) if the unit is a single unit residential complex or a residential condominium unit, the fair market value of the unit at the particular time, excluding an amount equal to the tax that would be paid or payable by the person under Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of that unit if it were acquired at that time by the person for consideration equal to the fair market value of the unit as determined in accordance with that Act, and

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

$$B_1 \times B_2;$$ and

(3) C is the tax paid under section 16 in respect of the amount of the rebate to which the person is entitled in respect of the unit under subsection 3 of section 256.2 of the Excise Tax Act.

For the purposes of the formulas in the second paragraph,

(1) A_1 is the total tax under section 16 that is payable in respect of the purchase from the supplier or is deemed to have been paid in respect of the deemed purchase;

(2) A_2 is

(*a*) if the unit is a single unit residential complex or a residential condominium unit, 1, and

(*b*) in any other case, the unit's percentage of total floor space;

(3) B_1 is the unit's percentage of total floor space;

(4) B_2 is the fair market value at the particular time of the residential complex or addition, as the case may be, excluding an amount equal to the tax that would be paid or payable by the person under Part IX of the Excise Tax Act in respect of that residential complex or that addition if it were acquired at that time by the person for consideration equal to the fair market value of the residential complex or addition as determined in accordance with that Act; and

(5) D is the amount determined under subparagraph 3 of the second paragraph.

"**378.8.** Subject to sections 378.16 and 378.17, a person, other than a cooperative housing corporation, is entitled to a rebate as determined under section 378.9, where

(1) the person is a builder of a residential complex or of an addition to a multiple unit residential complex and the person makes

(*a*) an exempt supply by way of sale, referred to in section 97.1, of a building or part of a building, and

(*b*) an exempt supply, referred to in section 100, of land by way of lease or by way of assignment of a lease in respect of land;

(2) the lease provides for continuous possession or use of the land for a period of at least 20 years or it contains an option to purchase the land;

(3) those supplies result in the person being deemed under any of sections 223 to 231.1 to have made and received a taxable supply by way of sale of the complex or addition and to have paid tax at a particular time in respect of that supply;

(4) in the case of a multiple unit residential complex or an addition to such a complex, the complex or addition, as the case may be, includes, at the particular time, one or more qualifying residential units of the person;

(5) the person is not entitled to include the tax deemed to have been paid by the person in determining an input tax refund of the person; and

(6) in the case of an exempt supply by way of sale of a single unit residential complex or a residential condominium unit, the recipient of that supply is entitled to claim a rebate under section 370.0.1 in respect of the complex or unit.

"**378.9.** For the purposes of section 378.8, the rebate to which the person is entitled is equal to the total of all amounts each of which is an amount, in respect of a residential unit that forms part of the complex or addition, as the case may be, and is, in the case of a multiple unit residential complex or an addition to such a complex, a qualifying residential unit of the person at the particular time, determined by the formula

[A × ($225,000 – B) / $25,000] + C – D.

For the purposes of the formula in the first paragraph,

(1) A is the lesser of $5,642 and the amount determined by the formula

36% × [(A_1 × A_2) – E];

(2) B is the greater of $200,000 and

(*a*) if the unit is a single unit residential complex or a residential condominium unit, the fair market value of the unit at the particular time, excluding an amount equal to the tax that would be paid or payable by the person under Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of that unit if that unit were acquired at that time by the person for consideration equal to the fair market value of the unit as determined in accordance with that Act, and

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

B_1 × B_2;

(3) C is the tax paid under section 16 in respect of the amount of the rebate to which the person is entitled in respect of the unit under subsection 4 of section 256.2 of the Excise Tax Act; and

(4) D is the amount of the rebate under section 370.0.2 that the recipient of the exempt supply by way of sale is entitled to claim in respect of the complex or unit.

For the purposes of the formulas in the second paragraph,

(1) A_1 is the tax under section 16 that is deemed to have been paid by the person at the particular time in respect of the residential complex or addition;

(2) A_2 is

(*a*) if the unit is a single unit residential complex or a residential condominium unit, 1, and

(*b*) in any other case, the unit's percentage of total floor space;

(3) B_1 is the unit's percentage of total floor space;

(4) B_2 is the fair market value at the particular time of the residential complex or addition, as the case may be, excluding an amount equal to the tax that would be paid or payable by the person under Part IX of the Excise Tax Act in respect of that residential complex or that addition if it were acquired at that time by the person for consideration equal to the fair market value of the residential complex or addition as determined in accordance with that Act; and

(5) E is the amount determined under subparagraph 3 of the second paragraph.

"**378.10.** Subject to sections 378.16 and 378.17, a cooperative housing corporation is entitled to a rebate as determined under section 378.11, where

(1) the cooperative is

(*a*) the recipient of a taxable supply by way of sale (in this section and section 378.11 referred to as the "purchase from the supplier") from another person of a residential complex or of an interest in a residential complex and is not a builder of the complex, or

(*b*) a builder of a residential complex, or of an addition to a multiple unit residential complex, who makes an exempt supply by way of lease referred to in section 98 that results in the cooperative being deemed under any of sections 223 to 231.1 to have made and received a taxable supply by way of sale (in this section and section 378.11 referred to as the "deemed purchase") of the complex or addition and to have paid tax in respect of that supply;

(2) the cooperative is not entitled to include the tax in respect of the purchase from the supplier, or the tax in respect of the deemed purchase, in determining an input tax refund of the cooperative; and

(3) at any time at which a residential unit included in the complex is a qualifying residential unit of the cooperative, the cooperative first gives occupancy of the unit after its construction or last substantial renovation under an agreement for a supply of that unit that is an exempt supply referred to in section 98.

"**378.11.** For the purposes of section 378.10, the rebate to which the cooperative housing corporation is entitled in respect of a residential unit is equal to the amount determined by the formula

$[A \times (\$225{,}000 - B) / \$25{,}000] + C - D.$

For the purposes of the formula in the first paragraph,

(1) A is the lesser of $5,642 and the amount determined by the formula

$36\% \times [(A_1 \times A_2) - E]$;

(2) B is the greater of $200,000 and

(*a*) if the unit is a single unit residential complex or a residential condominium unit, the fair market value of the unit at the time at which tax first becomes payable in respect of the purchase from the supplier or tax in respect of the deemed purchase is deemed to have been paid by the cooperative, excluding an amount equal to the tax that would be paid or payable by the cooperative under Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of that unit if it were acquired at that time by the cooperative for consideration equal to the fair market value of the unit as determined in accordance with that Act, and

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

$B_1 \times B_2$;

(3) C is the tax paid under section 16 in respect of the amount of the rebate to which the cooperative is entitled in respect of the unit under subsection 5 of section 256.2 of the Excise Tax Act; and

(4) D is the amount of the rebate under section 370.6 that the recipient of the exempt supply of the unit is entitled to claim in respect of the unit.

For the purposes of the formulas in the second paragraph,

(1) A_1 is the total tax under section 16 that is payable in respect of the purchase from the supplier or is deemed to have been paid in respect of the deemed purchase;

(2) A_2 is

(*a*) if the unit is a single unit residential complex, 1, and

(*b*) in any other case, the unit's percentage of total floor space;

(3) B_1 is the unit's percentage of total floor space;

(4) B_2 is the fair market value of the residential complex at the time referred to in subparagraph *a* of subparagraph 2 of the second paragraph, excluding an amount equal to the tax that would be paid or payable by the cooperative under Part IX of the Excise Tax Act in respect of that residential

complex if it were acquired at that time by the cooperative for consideration equal to the fair market value of the residential complex as determined in accordance with that Act; and

(5) E is the amount determined under subparagraph 3 of the second paragraph.

"**378.12.** Subject to sections 378.16 and 378.17, a person who makes an exempt supply of land that is a supply referred to in subparagraph 1 of the first paragraph of section 100 made to a person described in subparagraph *a* of that subparagraph 1, or that is a supply referred to in subparagraph 2 of the first paragraph of that section, of a site in a residential trailer park, and is deemed under any of sections 222.1 to 222.3, 243, 258 and 261 to have made and received a taxable supply by way of sale of the land and to have paid tax, at a particular time, in respect of that supply, is entitled to a rebate as determined under section 378.13 if the person is not entitled to include the tax deemed to have been paid by the person in determining an input tax refund of the person and in the case of an exempt supply of land described in subparagraph 1 of the first paragraph of section 100, the residential unit that is or is to be affixed to the land is or will be so affixed for the purpose of its use and enjoyment as a primary place of residence for individuals.

"**378.13.** For the purposes of section 378.12, the rebate to which the person is entitled is equal to the amount determined by the formula

{[36% × (A – B)] × [($56,250 – C) / $6,250]} + B.

For the purposes of the formula,

(1) A is

(*a*) in the case of a taxable supply in respect of which the person is deemed to have paid tax calculated on the fair market value of the land, the tax under section 16 that is deemed to have been paid in respect of that supply, and

(*b*) in the case of a taxable supply in respect of which the person is deemed to have paid tax equal to the basic tax content of the land, tax equal to the basic tax content of the land at the particular time;

(2) B is the tax paid under section 16 in respect of the amount of the rebate to which the person is entitled in respect of the land under subsection 6 of section 256.2 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15); and

(3) C is the greater of $50,000 and

(*a*) in the case of a supply of land referred to in subparagraph 1 of the first paragraph of section 100, the fair market value of the land at the particular time, excluding an amount equal to the tax that would be paid or payable by

the person under Part IX of the Excise Tax Act in respect of that land if it were acquired at that time by the person for consideration equal to the fair market value of the land as determined in accordance with that Act, and

(*b*) in the case of a supply of a site in a residential trailer park or in an addition to a residential trailer park, the result obtained by dividing the fair market value, at the particular time, of the park or addition, as the case may be, excluding an amount equal to the tax that would be paid or payable by the person under Part IX of the Excise Tax Act in respect of that site or addition if it were acquired at that time by the person for consideration equal to the fair market value of the site or addition as determined in accordance with that Act, by the total number of sites in the park or addition, as the case may be, at the particular time.

"**378.14.** A person who is not entitled to a rebate under any of sections 378.6, 378.8 and 378.10 in respect of a residential unit because the fair market value of the unit is $225,000 or more, but who is entitled to a rebate under any of subsections 3, 4 and 5 of section 256.2 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the unit, is entitled to a rebate of the tax paid under section 16 on the amount of the rebate to which the person is entitled in respect of the unit under any of those subsections.

"**378.15.** A person who is not entitled to a rebate under section 378.12 in respect of land because the fair market value of the land is $56,250 or more, but who is entitled to a rebate under subsection 6 of section 256.2 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the land, is entitled to a rebate of the tax paid under section 16 on the amount of the rebate to which the person is entitled in respect of the land under that subsection.

"**378.16.** A person is not entitled to the rebate under this subdivision IV.2 unless

(1) the person files an application for the rebate within two years after

(*a*) in the case of a rebate under section 378.10, the end of the month in which the person makes the exempt supply referred to in subparagraph *b* of paragraph 1 of that section,

(*b*) in the case of a rebate under section 378.12, the end of the month in which the tax referred to in that section is deemed to have been paid by the person, and

(*c*) in any other case of a rebate in respect of a residential unit, the end of the month in which tax first becomes payable by the person, or is deemed to have been paid by the person, in respect of the unit or interest in the unit or in respect of the residential complex or addition, or interest therein, in which the unit is situated;

(2) if the rebate is in respect of a taxable supply received by the person from another person, the person has paid all of the tax payable in respect of that supply; and

(3) if the rebate is in respect of a taxable supply in respect of which the person is deemed to have collected tax in a reporting period of the person, the person has reported the tax in the person's return under Chapter VIII for the reporting period and has remitted all net tax remittable, if any, as reported in that return.

"**378.17.** For the purposes of this subdivision IV.2, the following rules apply:

(1) if, at a particular time, substantially all of the residential units in a multiple unit residential complex containing ten or more residential units are residential units in respect of which the condition mentioned in subparagraph *c* of paragraph 1 of the definition of "qualifying residential unit" in section 378.4 is satisfied, all of the residential units in the complex are deemed to be residential units in respect of which that condition is satisfied at that time; and

(2) except in the case of residential units referred to in paragraph 1 of the definition of "self-contained residence" in section 378.4,

(*a*) the two residential units that are located in a multiple unit residential complex containing only those two residential units are deemed to together form a single residential unit, and the complex is deemed to be a single unit residential complex and not to be a multiple unit residential complex, and

(*b*) if a residential unit (in this subparagraph referred to as a "specified unit") in a building affords direct internal access with or without the use of a key or similar device to another area of the building that is all or part of the living area of another residential unit, the specified unit is deemed to be part of the other residential unit and not to be a separate residential unit.

"**378.18.** No rebate shall be paid to a person under this subdivision IV.2 if all or part of the tax included in determining the rebate would otherwise be included in determining a rebate of the person under any of sections 362.2 to 370, 370.9 to 370.13, 378.1 to 378.3 and 383 to 397.

In addition, any amount of tax that the person, because of an Act of the Legislature of Québec, other than this Act, or an Act of the Parliament of Canada or any other rule of law, is not required to pay or remit, or is entitled to recover by way of a rebate, remission or compensation, shall not be included in determining the rebate under this subdivision IV.2.

"**378.19.** Where a person was entitled to claim a rebate under section 378.6 or 378.14 in respect of a qualifying residential unit other than a unit located in a multiple unit residential complex and, within one year after the unit is first occupied as a place of residence after the construction or last

substantial renovation of the unit was substantially completed, the person makes a supply by way of sale, other than a supply deemed under any of sections 298 to 301.3 or 320 to 324.6 to have been made, of the unit to a purchaser who is not acquiring the unit for use as the primary place of residence of the purchaser, an individual who is related to the purchaser or a former spouse of the purchaser, the person shall pay to the Minister an amount equal to the rebate, plus interest at the rate prescribed in section 28 of the Act respecting the Ministère du Revenu (chapter M-31), calculated on that amount for the period beginning on the day the rebate is paid or applied to a liability of the person and ending on the day the amount of the rebate is paid by the person to the Minister."

(2) Subsection 1 has effect from 28 February 2000. However,

(1) sections 378.6 to 378.11 of the said Act apply to a taxable supply by way of sale of

(*a*) a residential complex or an interest in a residential complex to a person who is not a builder of the complex, or of a residential complex or an addition to a residential complex to a person who is, otherwise than by reason of section 220 of the said Act, a builder of the complex or addition, as the case may be, only if the construction or last substantial renovation of the complex or addition, as the case may be, began after 27 February 2000, and

(*b*) a residential complex or an addition to a residential complex that is deemed to be made to a person who has converted an immovable for use as a residential complex or an addition to a residential complex and is, as a result, deemed under section 220 of the said Act to be a builder of the complex or addition, only if the construction or alteration necessary to effect the conversion began after 27 February 2000; and

(2) sections 378.12 and 378.13 do not apply to exempt supplies made before 28 February 2000.

(3) In addition, where

(1) sections 378.7, 378.9, 378.11 and 378.14 of the said Act apply to a taxable supply by way of sale of

(*a*) a residential complex or an interest in a residential complex to a person who is not a builder of the complex, made under an agreement in writing entered into before 15 March 2000 and under which the transfer of ownership occurs before that date, the references to "$200,000", "$225,000" and "$5,642" in sections 378.7, 378.9 and 378.11 shall be read as references to "$175,000", "$200,000" and "$4,937", respectively, and the reference to "$225,000" in section 378.14 shall be read as a reference to "$200,000", and

(*b*) a residential complex or an addition to a residential complex to a person who is, otherwise than because of section 220 of the said Act, a builder of the complex or addition, as the case may be, and whose permit in respect of the

construction or substantial renovation was issued before 15 March 2000, the references to "$200,000", "$225,000" and "$5,642" in sections 378.7, 378.9 and 378.11 shall be read as references to "$175,000", "$200,000" and "$4,937", respectively, and the reference to "$225,000" in section 378.14 shall be read as a reference to "$200,000";

(2) sections 378.7, 378.9, 378.11 and 378.14 of the said Act apply to a taxable supply by way of sale of a residential complex or an addition to a residential complex that is deemed to be made to a person who has converted an immovable to use as a residential complex or an addition to a residential complex and who is, as a consequence, deemed under section 220 of the said Act to be a builder of the immovable or addition and the construction or alteration necessary to effect the conversion began before 15 March 2000, the references to "$200,000", "$225,000" and "$5,642" in sections 378.7, 378.9 and 378.11 shall be read as references to "$175,000", "$200,000" and "$4,937", respectively, and the reference to "$225,000" in section 378.14 shall be read as a reference to "$200,000"; and

(3) sections 378.13 and 378.15 of the said Act apply to an exempt supply made before 15 March 2000, the references to "$50,000" and "$56,250" in section 378.13 shall be read as references to "$43,750" and "$50,000", respectively, and the reference to "$56,250" in section 378.15 shall be read as a reference to "$50,000".

(4) Where, in order to satisfy the condition under paragraph 1 of section 378.16 of the said Act in respect of a rebate, a person would have to file an application for the rebate before the particular day that is two years after the day on which this Act is assented to, the person shall, despite that paragraph, have until the particular day to file the application.

340. (1) Section 380.1 of the said Act is amended by replacing "or the Yukon Territory" by ", the Yukon Territory or Nunavut,".

(2) Subsection 1 has effect from 1 April 1999.

341. (1) Section 402.15 of the said Act is amended by adding the following paragraph after paragraph 3:

"(4) an amount of tax under section 16 that was payable or was deemed under any of sections 223 to 231.1 to have been paid by a trust in respect of a taxable supply to the trust of a residential complex, an addition to a residential complex or land if, in respect of that supply, the trust was entitled to claim any rebate under subdivision IV.2 of subdivision 3 of Division I of Chapter VII or would be so entitled after paying the tax payable in respect of that supply."

(2) Subsection 1 has effect from 28 February 2000.

342. (1) Section 417 of the said Act is amended by replacing the portion before subparagraph 1 of the first paragraph by the following:

"**417.** The Minister shall cancel the registration of a person who is a small supplier who, as the case may be, does not carry on a taxi business, does not engage in the retail sale of tobacco, does not make supplies of alcoholic beverages or is not referred to in section 407.5 where".

(2) Subsection 1 has effect from 1 October 1999.

343. (1) Section 423 of the said Act is amended by inserting the following paragraph after paragraph 2:

"(2.1) the supplier and the recipient have made an election under section 94 in respect of the supply; or".

(2) Subsection 1 applies in respect of supplies made after 4 October 2000.

344. (1) The said Act is amended by inserting the following section after section 424:

"**424.1.** Where a person makes a taxable supply that gives rise to an account receivable and at any time the person supplies by way of sale or assignment the debt, for the purposes of section 20 of the Act respecting the Ministère du Revenu (chapter M-31) and sections 428 to 436.1, the following rules apply:

(1) the person is deemed to have collected, at that time, the amount, if any, of the tax in respect of the taxable supply that was not collected by the person before that time; and

(2) any amount collected by any person after that time on account of the tax payable in respect of the taxable supply is deemed not to be an amount collected as or on account of tax.

For the purposes of section 24.1 of that Act, the amount of the tax in respect of the taxable supply that gave rise to the account receivable and that is the subject of the sale or assignment is deemed not to be an amount of duties which must be paid to the Minister in accordance with a fiscal law.

This section does not apply where the person who makes a taxable supply that gives rise to an account receivable is not required to collect the tax payable in respect of that supply by reason of the application of the second paragraph of that section 422."

(2) Subsection 1 applies in respect of any supply of a debt the ownership of which is transferred under the agreement for the supply after 10 December 1998.

345. (1) Section 427.1 of the said Act is repealed.

(2) Subsection 1 applies in respect of supplies made after 31 December 2000.

346. (1) Section 427.3 of the said Act is amended

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

"**427.3.** The Minister may, on the application of a person who is registered under Division I, authorize the person to use, on or after a particular day in a fiscal year of the person and subject to such conditions as the Minister may from time to time specify, a certificate (in this division referred to as a "shipping certificate") for the purposes of section 179.1, where it can reasonably be expected";

(2) by replacing "that section" in paragraph 1 by "section 179".

(2) Subsection 1 has effect from 1 January 2001.

347. (1) Section 427.5 of the said Act is replaced by the following section:

"**427.5.** Where the Minister authorizes a registrant to use a shipping certificate, the Minister shall notify the registrant in writing of the authorization, its effective date and its expiry date and the number assigned by the Minister that identifies the registrant or the authorization and that must be disclosed by the registrant when providing the certificate for the purposes of section 179.1".

(2) Subsection 1 applies in respect of any authorization granted to a person after 31 December 2000, whether on the first application of the person or on the renewal of an authorization previously granted.

348. (1) Section 431.1 of the said Act is amended

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

"(1) the person is, during the reporting period, a financial institution described in the third paragraph or a person related to such a financial institution; or";

(2) by replacing the second and third paragraphs by the following paragraphs:

"The first paragraph does not apply in respect of a person, other than a person referred to in subparagraph 1 of the first paragraph during the reporting period, where the person is a charity during the reporting period or all or substantially all of the supplies made by the person during the two fiscal years immediately preceding the particular fiscal year, other than supplies of financial services, are taxable supplies.

The financial institutions to which this section refers are the persons to whom the definition of "listed financial institution" in section 1 applies, excluding any person to whom paragraphs 3, 8 and 10 of that definition apply."

(2) Subsection 1 has effect from 1 July 1996. However, the reference to the expression "charity" in section 431.1 of the said Act shall be read as if the definitions of "charity" and "public institution" in section 1 of the said Act, enacted by paragraphs 18 and 22 of subsection 1 of section 418 of the Act to again amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions (1997, chapter 85), had come into force on that date.

349. (1) The said Act is amended by inserting the following sections after section 457.3:

"**457.4.** Where a registrant has received a supply of property, except a zero-rated supply, other than the zero-rated supply included in section 179.1, from a supplier to whom the registrant has provided a shipping certificate, within the meaning of section 427.3, for the purposes of that supply and an authorization of the registrant to use the certificate was not in effect at the time the supply was made or the registrant did not ship the property outside Québec in the circumstances described in paragraphs 2 to 4 of section 179, the registrant shall, in determining the net tax for the reporting period of the registrant that includes the earliest day on which tax in respect of the supply became payable or would have become payable if the supply were not a zero-rated supply, add an amount equal to interest, at the rate prescribed under section 28 of the Act respecting the Ministère du Revenu (chapter M-31) plus 4% per year compounded daily, on the total amount of tax in respect of the supply that was payable or would have been payable if the supply were not a zero-rated supply, computed for the period beginning on that earliest day and ending on the day on or before which the return under section 468 for that reporting period is required to be filed.

"**457.5.** Where an authorization granted to a registrant to use a shipping certificate, within the meaning of section 427.3, is deemed to have been revoked under section 427.7 from the day after the last day of a fiscal year of the registrant, the registrant shall, in determining the net tax for the first reporting period of the registrant following that year, add the amount determined by the formula

$A \times B/12$.

For the purposes of the formula,

(1) A is the product obtained when 7.5% is multiplied by the total of all amounts each of which is consideration paid or payable by the registrant for a supply made in Québec of an item of inventory acquired by the registrant in the year that is a zero-rated supply only because it is referred to in section

179.1, other than a supply in respect of which the registrant is required under section 457.4 to add an amount in determining net tax for any reporting period; and

(2) B is the total of 4% and the rate of interest prescribed under section 28 of the Act respecting the Ministère du Revenu (chapter M-31), expressed as a percentage per year, that is in effect on the last day of that first reporting period.

"**457.6.** Where a registrant has received a supply of property, except a zero-rated supply, other than the zero-rated supply included in section 179.2, from a supplier to whom the registrant has provided a shipping distribution centre certificate, as defined in section 350.23.7, for the purposes of that supply and an authorization of the registrant to use the certificate was not in effect at the time the supply was made or the property was not acquired by the registrant for use or supply as domestic inventory or as added property, as those expressions are defined in section 350.23.1, in the course of commercial activities of the registrant, the registrant shall, in determining the net tax for the reporting period of the registrant that includes the earliest day on which tax in respect of the supply became payable or would have become payable if the supply were not a zero-rated supply, add an amount equal to interest, at the rate prescribed under section 28 of the Act respecting the Ministère du Revenu (chapter M-31) plus 4% per year compounded daily, on the total amount of tax in respect of the supply that was payable or that would have been payable in respect of the supply if the supply were not a zero-rated supply, computed for the period beginning on that earliest day and ending on the day on or before which the return under section 468 for that reporting period is required to be filed.

"**457.7.** Where an authorization granted to a registrant under section 350.23.7 is in effect at any time in a fiscal year of the registrant and the shipping revenue percentage of the registrant, as defined in section 350.23.1, for that year is less than 90% or the circumstances described in paragraph 1 or 2 of section 350.23.11 exist in respect of the year, the registrant shall, in determining the net tax for the first reporting period of the registrant following the year, add the amount determined by the formula

A × B/12.

For the purposes of the formula,

(1) A is the product obtained when 7.5% is multiplied by the total of all amounts each of which is consideration paid or payable by the registrant for a supply made in Québec of property acquired by the registrant in the year that is a zero-rated supply only because it is referred to in section 179.2, other than a supply in respect of which the registrant is required under section 457.6 to add an amount in determining net tax for any reporting period; and

(2) B is the total of 4% and the rate of interest prescribed under section 28 of the Act respecting the Ministère du Revenu (chapter M-31), expressed as a

percentage per year, that is in effect on the last day of that first reporting period."

(2) Subsection 1 applies in respect of supplies made after 31 December 2000.

350. (1) Section 677 of the said Act, amended by section 174 of chapter 9 of the statutes of 2002 and by section 18 of chapter 58 of the statutes of 2002, is again amended by inserting the following subparagraph after subparagraph 38 of the first paragraph:

"(38.1) determine, for the purposes of section 378.4, the prescribed residential units;".

(2) Subsection 1 has effect from 28 February 2000.

ACT TO AMEND THE TAXATION ACT, THE ACT RESPECTING THE QUÉBEC SALES TAX AND OTHER LEGISLATIVE PROVISIONS

351. (1) Section 551 of the Act to amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions (1995, chapter 63), amended by section 381 of chapter 14 of the statutes of 1997, by section 769 of chapter 85 of the statutes of 1997 and by section 299 of chapter 39 of the statutes of 2000, is again amended by inserting ", Nunavut" after "Yukon Territory" in subparagraph 2 of the third paragraph.

(2) Subsection 1 has effect from 1 April 1999.

ACT TO AGAIN AMEND THE TAXATION ACT, THE ACT RESPECTING THE QUÉBEC SALES TAX AND OTHER LEGISLATIVE PROVISIONS

352. (1) Section 293 of the Act to again amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions (2001, chapter 53)is amended by replacing "2001" in subsection 2 by "2003".

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

353. (1) Section 295 of the said Act is amended by replacing "2001" in subsection 2 by "2003".

(2) Subsection 1 applies in respect of supplies made after 31 December 1997.

354. This Act comes into force on 3 July 2003.

Regulations and other acts

Gouvernement du Québec

Agreement

An Act respecting elections and referendums in municipalities
(R.S.Q., c. E-2.2)

AGREEMENT CONCERNING NEW METHODS OF VOTING USING "PERFAS-MV" BALLOT BOXES

AGREEMENT ENTERED INTO

BETWEEN

The MUNICIPALITY OF BEAUPRÉ, a legal person established in the public interest, having its head office at 216, rue Prévost, Beaupré, G0A 1E0, Province of Québec, represented by the mayor, Mr Henri Cloutier and the clerk, Mrs Johanne Gagnon under a resolution bearing number 2003-160603, hereinafter called

THE MUNICIPALITY

AND

Mtre Marcel Blanchet, in his capacity as CHIEF ELECTORAL OFFICER OF QUÉBEC, duly appointed to that office under the Election Act (R.S.Q., c. E-3.3), acting in that capacity and having his main office at 3460, rue de La Pérade, Sainte-Foy, Province of Québec, hereinafter called

THE CHIEF ELECTORAL OFFICER

AND

the Honourable Jean-Marc Fournier, in his capacity as MINISTER OF MUNICIPAL AFFAIRS, SPORTS AND RECREATION, having his main office at 10, rue Pierre-Olivier-Chauveau Québec, Province of Québec, hereinafter called

THE MINISTER

WHEREAS the council of the MUNICIPALITY, by its resolution No. 1974-200503, passed at its meeting of May 20, 2003, expressed the desire to avail itself of the provisions of the Act respecting elections and referendums in municipalities to enter into an agreement with the CHIEF ELECTORAL OFFICER and the MINISTER in order to allow the use of electronic ballot boxes for the general election of November 2nd, 2003 in the MUNICIPALITY;

WHEREAS sections 659.2 and 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) provide the following:

"**659.2.** A municipality may, in accordance with an agreement made with the Minister of Municipal Affairs and Greater Montréal and the Chief Electoral Officer, test new methods of voting during a poll. The agreement may provide that it also applies to polling held after the poll for which the agreement was entered into; in such case, the agreement shall provide for its period of application.

The agreement must describe the new methods of voting and mention the provisions of this Act it amends or replaces.

The agreement has the effect of law.

659.3. After polling during which a test mentioned in section 659.2 is carried out, the municipality shall send a report assessing the test to the Minister of Municipal Affairs and Greater Montréal and the Chief Electoral Officer.";

WHEREAS the MUNICIPALITY expressed the desire to avail itself of those provisions for the general election held on November 2nd, 2003 and could, with the necessary adaptations, avail itself of those provisions for elections held after the date of the agreement, the necessary adaptations to be included in an addendum to this agreement;

WHEREAS it is expedient to provide the procedure that applies to the territory of the MUNICIPALITY for that general election;

WHEREAS an agreement must be entered into between the MUNICIPALITY, the CHIEF ELECTORAL OFFICER and the MINISTER;

WHEREAS the MUNICIPALITY is solely responsible for the technological choice elected;

WHEREAS the council of the MUNICIPALITY passed, at its meeting of June 16, 2003, resolution No. 2003-160603 approving the text of the agreement and authorizing the mayor and the clerk or secretary-treasurer to sign this agreement;

WHEREAS the returning officer of the MUNICIPALITY is responsible for the application of this agreement and the means necessary to carry it out;

THEREFORE, the parties agree to the following:

1. PREAMBLE

The preamble to this agreement is an integral part of the agreement.

2. INTERPRETATION

Unless stated otherwise, expressly or as a result of the context of a provision, the following expressions, terms and words have, for the purposes of this agreement, the meaning and application given in this section.

2.1 "electronic voting system" means an apparatus consisting of the following devices:

— a computer containing in its memory the list of electors, used for the preparation of electronic voting cards;

— a reader of electronic voting cards;

— one or more printers;

— one or more autonomous voting terminals;

— electronic cards used to place the terminals in "election" mode, to vote (electronic voting cards), to place the terminals in "end of election" mode, and to record the results from each autonomous voting terminal;

2.2 "voting terminal" means an independent device containing a display with a graphical representation of a ballot paper, buttons used by electors to vote, and a memory card to record and compile the votes cast by electors;

2.3 "electronic card reader" means a device allowing the information required for an elector to vote to be transferred onto an electronic card;

2.4 "rejected ballot paper" means a ballot paper for which the button corresponding to "I do not wish to vote for the office of mayor" or "I do not wish to vote for the office of councillor" has been pushed by an elector on the voting terminal;

2.5 "operations trail" means a print-out of the operations (audit) of a voting terminal.

3. ELECTION

3.1 For the purposes of the general election of November 2nd, 2003 in the municipality, a sufficient number of "PERFAS-MV" model electronic voting systems will be used.

3.2 Before the publication of the notice of election, the municipality must take the necessary steps to provide its electors with adequate information concerning the testing of the new method of voting.

4. SECURITY MECHANISMS

Each electronic voting system must include the following security mechanisms:

(1) a report displaying a total of "zero" must be automatically produced by the electronic ballot box when a voting terminal is turned on on the first day of advance polling and on polling day;

(2) a verification report must be generated on a continuous basis and automatically saved on the memory card of the voting terminal, and must record each procedural operation;

(3) a mechanism which prevents a voting terminal from being placed in "end of election" mode while polling is still under way, because the terminal can only be placed in "end of election" mode by the insertion of an "end of election" card;

(4) a mechanism to ensure that the compilation of results is not affected by any type of interference once the electronic ballot box has been placed in "election" mode;

(5) each voting terminal must be equipped with seals, two to prevent the opening of the box and one covering the screws of the voting terminal;

(6) each voting terminal must be equipped with a back-up power source (battery) able to operate for two to five hours, unless all the terminals are connected to a generator;

(7) if a voting terminal is defective, its internal memory card may be removed and transferred immediately into another voting terminal in order to allow the procedure to continue.

5. PROGRAMMING

Each electronic voting system used is specially programmed by the firm PG Elections inc. for the municipality in order to recognize and tally ballot papers in accordance with this agreement.

6. AMENDMENTS TO THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

6.1 **Election officers**

Section 68 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) is amended by inserting the words "senior deputy returning officer, assistant to the senior deputy returning officer" after the word "assistant,".

6.2 **Senior deputy returning officer, assistant to the senior deputy returning officer, deputy returning officer and poll clerk**

The following is substituted for section 76 of the Act:

"**76.** The returning officer shall appoint the number of senior deputy returning officers and assistants to the senior deputy returning officer that he deems necessary for each polling place.

The returning officer shall appoint a deputy returning officer and a poll clerk for each polling station.".

6.3 **Duties of the senior deputy returning officer, assistant to the senior deputy returning officer and deputy returning officer**

The following is substituted for section 80 of the Act:

"**80.** The senior deputy returning officer shall, in particular,

(1) see to the installation and preparation of the electronic voting systems (voting terminal and electronic card reader);

(2) ensure that the polling is properly conducted and maintain order in the vicinity of the voting terminals in the polling place;

(3) facilitate the exercise of the right to vote and ensure that voting is secret;

(4) ensure that the electronic voting systems function correctly;

(5) print out the results compiled by the voting terminals at the closing of the poll;

(6) complete an overall statement of votes from the partial statements and the results compiled by each voting terminal;

(7) give the returning officer, at the closing of the poll, the results compiled by each voting terminal, the overall statement of votes and the number of electors at each polling station who were given an electronic voting card;

(8) give the returning officer the memory card on which the results of each voting terminal are recorded, the card used to place terminals in "end of election" mode, and the voting terminals in sealed cases.

80.1. The assistant to the deputy returning officer shall, in particular,

(1) assist the senior deputy returning officer in the latter's duties;

(2) receive any elector referred by the senior deputy returning officer;

(3) verify the polling booths in the polling place.

80.2. The deputy returning officer shall, in particular,

(1) see to the arrangement of the polling station;

(2) see that the polling is properly conducted and maintain order at the polling station;

(3) facilitate the exercise of the right to vote and ensure that voting is secret;

(4) receive proof of identity from electors;

(5) give electors an electronic voting card to exercise their right to vote;

(6) check that each electronic voting card returned after the vote has been used. If a card has not been used, a record shall be made in the poll book that an elector has failed to exercise the right to vote;

(7) at the close of the poll, give the senior deputy returning officer a statement indicating the total number of electors given an electronic voting card by the deputy returning officer at the polling station.".

6.4 **Discretion of the Chief Electoral Officer upon observing an error, emergency or exceptional circumstance**

The following is substituted for section 90.5 of the Act:

"**90.5.** Where, during the election period, within the meaning of section 364, it comes to the attention of the Chief Electoral Officer that, subsequent to an error, emergency or exceptional circumstance, a provision referred to in section 90.1 or in the agreement provided for in section 659.2 of the Act respecting elections and referendums in municipalities does not meet the demands of the resultant situation, the Chief Electoral Officer may adapt the provision in order to achieve its object.

The Chief Electoral Officer shall first inform the Minister of Municipal Affairs, Sports and Recreation of the decision he intends to make.

Within 30 days following polling day, the Chief Electoral Officer shall transmit to the President or the Secretary General of the National Assembly a report of the decisions made pursuant to the first paragraph. The President shall table the report in the National Assembly within 30 days of receiving it or, if the National Assembly is not sitting, within 30 days of resumption.".

6.5 **Notice of election**

The following is added after paragraph 7 of section 99:

"(8) the fact that the method of voting is by means of an electronic voting system."

6.6 **Polling subdivisions**

The following is substituted for section 104 of the Act:

"**104.** The returning officer shall divide the list of electors into polling subdivisions, each comprising not more than 750 electors.

The returning officer shall provide a sufficient number of polling stations at each polling place to receive electors, establish their identity and give them an electronic voting card.

In the polling place, the electors may report to any polling station. They shall be directed to the first available voting terminal to exercise their right to vote.".

6.7 **Verification of electronic voting systems**

The Act is amended by inserting the following subdivision after subdivision 1 of Division IV of Chapter VI of Title I:

"***§1.1*** *Verification of electronic voting systems*

173.1. The returning officer shall, not later than the fifth day preceding the first day of advance polling and the fifth day preceding polling day, test the electronic voting system to ensure that it tallies the number of votes cast accurately and precisely, in the presence of the candidates or their representatives if they so wish.

173.2. During the testing of the electronic voting system, adequate security measures must be taken by the returning officer to guarantee the integrity of the system as a whole and of each component used to record, compile and memorize results. The returning officer must ensure that no electronic communication that could change the programming of the system, the recording of data, the tallying of votes, the memorization of results or the integrity of the system as a whole may be established.

173.3. The returning officer shall conduct the test by performing the following operations:

(1) he shall prepare a pre-determined number of electronic voting cards and transfer onto them the information relating to one of the positions to be filled;

(2) he shall record on the voting terminal a pre-determined number of votes that have been manually tallied. The votes shall include:

(a) a pre-determined number of votes in favour of one of the candidates for the office of mayor and councillor;

(b) a pre-determined number of votes corresponding to the statement "I do not wish to vote for the office of mayor" or "I do not wish to vote for the office of councillor";

(c) a pre-determined number of votes for a candidate for the office of mayor and the same pre-determined number of votes for a candidate for a position as a councillor;

(3) he shall ensure that it is not possible to record more than one vote for the same position;

(4) he shall ensure that the button used to record a vote can be pushed only after the button used to vote for the mayor or corresponding to the statement "I do not wish to vote for the office of mayor", and the button used to vote for a councillor or corresponding to the statement "I do not wish to vote for the office of councillor", have been pushed;

(5) he shall ensure that the information relating to the positions to be filled contained on the electronic voting cards is consistent with the information transferred to the cards by the returning officer;

(6) he shall place the system in "end of election" mode and ensure that the results compiled by the voting terminal are consistent with the results compiled manually;

(7) once the test has been successfully completed, he shall reset the voting terminal to zero and replace it in a sealed case; the candidates or their representatives may affix their signature if they so wish;

(8) where an error in the compilation of the results compiled by the terminals is detected, the returning officer shall determine with certitude the cause of error, proceed with a further test, and repeat the operation until a perfect compilation of results is obtained; any error or discrepancy shall be noted in the test report;

(9) he may not change the programming established by the firm PG Elections inc.".

6.8 **Advance polling**

The following is substituted for sections 182, 183 and 185 of the Act:

"**182.** At the close of the advance polling station, the poll clerk shall enter the following particulars in the poll book:

(1) the number of electors who were given an electronic voting card;

(2) the total number of votes recorded on each terminal, as transmitted by the senior deputy returning officer;

(3) the names of the persons who performed duties as election officers or as representatives.

The deputy returning officer shall place in separate envelopes the forms, the verification reports printed out at each terminal, the poll book and the list of electors, and shall then seal the envelopes. The deputy returning officer, the poll clerk and the representatives who wish to do so shall affix their initials to the seals of the envelopes. The envelopes, except the envelope containing the list of electors, shall be given to the senior deputy returning officer for deposit in a large envelope. The large envelope shall be sealed. The persons present may affix their initials to the seal.

182.1. At the close of the advance polling station, the senior deputy returning officer shall:

(1) place the voting terminals in "end of election" mode;

(2) transfer the data contained in the memory of the electronic ballot box onto a memory card;

(3) print the operations trail (audit);

(4) place the memory card (memory chip) and the operations trail in separate envelopes, and seal the envelopes;

(5) forward the envelopes to the returning officer, who shall keep them safely in separated locations;

(6) set each voting terminal to zero, seal it and place it in its plastic case;

(7) affix his initials to all the seals and give the candidates or representatives present an opportunity to affix their initials.

182.2. The senior deputy returning officer shall place the card used to place the terminals in "election" mode and "end of election" mode in the large envelope.

The senior deputy returning officer shall seal the large envelope and each terminal. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seal of the large envelope.

The senior deputy returning officer shall then give the large envelope, the envelopes containing the list of electors, the memory card and the operations trail, as well as the voting terminals, to the returning officer or the person designated by the returning officer.

The returning officer shall keep in safety, in separate locations, the envelopes containing the memory card and the operations trail.

182.3. The returning officer shall, using the various lists of electors used in the advance polling, draw up an integrated list of all the electors who voted in the advance poll. The returning officer shall make as many copies of the list as there are to be polling stations on polling day.

183. Immediately before the time fixed for the opening of the polling station on the second day, where applicable, the senior deputy returning officer, before the persons present, shall open the large envelope and give each deputy returning officer the poll books and the forms. Each deputy returning officer shall open the envelopes and take custody of their contents.

The senior deputy returning officer shall take possession of the verification reports indicating the total number of votes recorded on each terminal, the card used to place the terminals in "election" mode and the card used to place the terminals in "end of election" mode.

The senior deputy returning officer shall verify for each terminal, using the memory card, that the number of votes recorded matches the number entered the previous day in the poll book by the poll clerk for that polling station.

The returning officer, or the person designated by the returning officer, shall return the list of electors to each deputy returning officer.

At the close of the advance poll on the second day, the senior deputy returning officer, the returning officer and the poll clerk shall perform the same actions as at the close of the advance poll on the first day.".

"**185.** From 7:00 p.m. on polling day, the returning officer or the person designated by the returning officer shall, using the memory card or cards on which the results are recorded, print out the results compiled by each voting terminal used in the advance poll in the presence of the deputy returning officers, the poll clerks and the representatives who wish to be present.

The results shall be printed out at the location determined by the returning officer. The print-out shall be performed in accordance with the rules applicable to the printing-out of the results from polling day, adapted as required.".

6.9 **Revocation**

Sections 186 and 187 of the Act are revoked.

6.10 **Polling place**

The following is substituted for the first paragraph of section 188 of the Act:

"**188.** The polling place must be in premises that are spacious and easily accessible to the public.".

6.11 **Booths**

The following is substituted for section 191 of the Act:

"**191.** Where electronic voting systems are used in an election, each polling station shall have the number of polling booths determined by the returning officer.".

6.12 **Ballot papers and electronic voting cards**

The following is substituted for section 192 of the Act:

"**192.** The returning officer shall ensure that a sufficient number of electronic voting cards are available to facilitate the exercise of the electors' right to vote."

The following is substituted for sections 193 to 195 of the Act:

"**193.** The graphical representation of a ballot paper that appears on the voting terminal shall be consistent with the model set out in Schedule 1 to the agreement provided for in section 659.2 of the Act respecting elections and referendums in municipalities.".

6.13 **Identification of the candidates**

The following is substituted for section 196 of the Act:

"**196.** The graphical representation of a ballot paper that appears on the voting terminal must allow each candidate to be identified.

Depending on the number of positions to be filled, the representation shall have one or more columns on one or more pages, showing:

(1) the name of each candidate, the given name preceding the surname;

(2) under each name, the name of the authorized party or recognized ticket to which the candidate belongs, where such is the case;

(3) a rectangle for the elector's mark opposite the particulars pertaining to each candidate.

All rectangles, as the space between consecutive rectangles, must be of the same size.

Where several independent candidates for the same office have the same name, the graphical representation of the ballot paper used in the polling for that office shall indicate the address of each candidate under the candidate's name and, where such is the case, above the indication of the candidate's political affiliation.

The particulars must appear in alphabetical order of the candidates' surnames and, as the case may be, of the candidates' given names. Where two or more candidates for the same office have the same name, the order in which the particulars relating to each of them appear shall be determined by a drawing of lots carried out by the returning officer.

The particulars pertaining to the candidates must correspond to those contained in the nomination papers, unless, in the meantime, the authorization of the party or the recognition of the ticket has been withdrawn, or the name of the party or ticket appearing on the nomination papers is inaccurate.".

6.14 **Reverse of ballot paper**

Section 197 is revoked.

6.15 **Withdrawal of a candidate**

The following is substituted for section 198 of the Act:

"**198.** Where an electronic voting system is used in an election, the returning officer shall ensure that the memory card is adjusted so that it does not take into account the candidates who have withdrawn.

Any vote in favour of those candidates before or after their withdrawal is null.".

6.16 **Withdrawal of authorization or recognition**

The following is substituted for section 199 of the Act:

"**199.** Where electronic voting systems are used in an election, the returning officer shall ensure that they are adjusted so that they do not take into account the party or ticket from which authorization or recognition has been withdrawn.".

6.17 **Number of voting terminals**

The following is substituted for sections 200 and 201 of the Act:

"**200.** The returning officer shall ensure that a sufficient number of electronic voting systems are available for the election.

201. The upper surface of the voting terminal must be in conformity with the model described in Schedule 2 to this Agreement.

The voting terminal must be designed so that the button used to vote for a candidate is placed opposite the particulars relating to that candidate.

The instructions to the electors on how to vote must be clearly indicated on the upper surface of the voting terminal.".

6.18 **Provision of polling materials**

The following is substituted for section 204 of the Act:

"**204.** Not later than one hour before the time fixed for the opening of the polling station, the returning officer shall give or make available to the deputy returning officer, in a sealed envelope, after affixing his initials to the seals,

(1) the copy of the list of electors for the polling subdivision used for the advance poll and comprising the electors who are entitled to vote at that polling station;

(2) a poll book;

(3) electronic voting cards;

(4) the forms and other documents necessary for the poll and the closing of the polling station.

The returning officer shall give or make available to the deputy returning officer, as well as to the senior deputy returning officer, any other materials required for the poll, the closing of the polling office, and the tallying and recording of votes.".

6.19 **Examination of polling materials and documents**

The following is substituted for section 207 of the Act:

"**207.** In the hour preceding the opening of the polling stations, the senior deputy returning officer, before the persons present, shall initialize the electronic voting system for the polling place. The senior deputy returning officer shall ensure that the system computer displays a total of zero electors having voted, and that each voting terminal displays a total of zero recorded votes, by verifying the printed reports from those devices.

The senior deputy returning officer shall ensure that as many small envelopes are available for the memory cards used to record results as there are voting terminals under his responsibility.

The senior deputy returning officer must inform the returning officer of any discrepancy observed upon activating a voting terminal or during the poll.

The senior deputy returning officer shall keep the reports and show them to any person present who wishes to examine them.

The senior deputy returning officer must, in addition, before the persons present, ensure that two seals are affixed to each terminal.

In the hour preceding the opening of the polling stations, each deputy returning officer and poll clerk shall examine the polling documents and materials provided by the returning officer.".

POLLING PROCEDURE

6.20 **Presence at the polling station**

The following is substituted for the third paragraph of section 214 of the Act:

"In addition, only the deputy returning officer, the poll clerk and the representatives assigned to the polling station, together with the returning officer, the election clerk, the assistant to the returning officer, the senior deputy returning officer and the assistant to the senior deputy returning officer may be present at the station. The officer in charge of information and order may be present, at the request of the deputy returning officer for as long as may be required. The poll runner may be present for the time required to perform his duties. Any other person assisting an elector under section 226 may be present for the time required to enable the elector to exercise his right to vote.".

6.21 **Electronic voting cards**

The following is substituted for section 221 of the Act:

"**221.** The deputy returning officer shall give each elector admitted to vote an electronic voting card to which the information required to exercise the right to vote has been transferred.

In no case may the information transferred to the card allow a link to be established between the casting of a vote and the identity of an elector.".

6.22 **Voting**

The following is substituted for section 222 of the Act:

"**222.** The elector shall enter the polling booth and exercise the right to vote by:

(1) inserting the electronic voting card in the opening provided for that purpose and clearly identified on the upper surface of the voting terminal;

(2) pressing the button placed opposite the particulars relating to the candidate in whose favour the elector wishes to vote as mayor and councillor or councillors, causing a mark to appear in the rectangle;

(3) recording the vote by pressing the red button placed on the upper surface of the voting terminal, causing the red lights placed above the button to go out.".

6.23 **Following the vote**

The following is substituted for section 223 of the Act:

"**223.** After removing the electronic voting card from the voting terminal, the elector shall leave the booth and give the electronic voting card to the polling officer designated for that purpose by the returning officer.

If an elector indicates one or more votes but leaves the booth without recording them, the senior deputy returning officer or the latter's assistant shall record the votes.

If an elector fails to indicate and record one or more votes and leaves the polling place, the senior deputy returning officer or the latter's assistant shall press the button corresponding to the statement "I do not wish to vote for the office of mayor" or "I do not wish to vote for the office of councillor" or both, as the case may be, and shall then record the voter's vote.

The electronic voting card shall then be removed from the voting terminal and given to the deputy returning officer. The occurrence shall be recorded in the poll book.".

6.24 **Cancelled and spoiled ballot papers**

Sections 224 and 225 of the Act are revoked.

6.25 **Assistance for electors**

The following is substituted for section 226 of the Act:

"**226.** An elector who declares under oath, before the senior deputy returning officer or the assistant to the senior deputy returning officer, that he is unable to use the electronic ballot box or to vote, may be assisted either:

(1) by a person who is the elector's spouse or a relative within the meaning of section 131;

(2) by the senior deputy returning officer, in the presence of the assistant to the senior deputy returning officer.

A deaf or mute elector may be assisted, for the purposes of communicating with the election officers and representatives, by a person capable of interpreting the sign language of the deaf.

The senior deputy returning officer shall advise the deputy returning officer concerned that an elector has availed himself of this section, and the occurrence shall be entered in the poll book.".

6.26 **Transfer of information to electronic voting cards**

The following is substituted for section 228 of the Act:

"**228.** The electronic voting system shall ensure that the information required for an elector to exercise the right to vote is transferred once only to the electronic voting card.".

6.27 **Compilation of results and tallying of votes**

The following is substituted for section 229 of the Act:

"**229.** After the closing of the poll, the senior deputy returning officer shall compile the results by:

(1) placing the election terminals of the polling place in "end of election" mode;

(2) recording the results of each voting terminal;

(3) printing out the results compiled by each voting terminal.

The reports on the compiled results shall indicate the total number of voters who have voted, the number of valid votes, the number of rejected ballot papers and the number of votes for each candidate.

The senior deputy returning officer shall gather from each poll clerk the number of electors admitted to vote.

The senior deputy returning officer shall allow each person present to consult the results.".

6.28 **Entries in poll book**

The following is substituted for section 230 of the Act:

"**230.** After the closing of the poll, the poll clerk of each polling station shall enter in the poll book:

(1) the number of electors who have voted;

(2) the names of the persons who have performed duties as election officers or as representatives assigned to that polling station.

230.1. The deputy returning officer shall place the poll book and the list of electors in separate envelopes.

The deputy returning officer shall seal the envelopes, and the representatives assigned to the polling station who wish to do so shall affix their initials to the seals.

The deputy returning officer shall then give the envelopes to the senior deputy returning officer.".

6.29 **Compiling sheet**

Section 231 of the Act is revoked.

6.30 **Counting of the votes**

Section 232 of the Act is revoked.

6.31 **Rejected ballot papers**

The following is substituted for section 233 of the Act:

"**233.** The electronic voting system shall be programmed in such a way that every ballot paper for which the button corresponding to "I do not wish to vote for the office of mayor" or "I do not wish to vote for the office of councillor" is pushed by the elector on the voting terminal is rejected.

For the purposes of the poll, the memory card shall be programmed in such a way that the electronic voting system processes and conserves all the votes cast, in other words both the valid ballot papers and the rejected ballot papers.".

Sections 234 to 237 of the Act are revoked.

6.32 **Partial statement of votes and copy for representatives**

The following is substituted for sections 238 and 240 of the Act:

"**238.** The deputy returning officer shall draw up the partial statement of votes, setting out the total number of electors admitted to vote.

A separate statement shall be drawn up for each polling station.

The deputy returning officer shall draw up sufficient copies of the partial statement of votes for himself, the senior deputy returning officer, the returning officer and every representative assigned to the polling station.

238.1 Using the partial statements of votes and the results compiled by the electronic voting system, the senior deputy returning officer shall draw up an overall statement of votes.".

"**240.** The senior deputy returning officer shall immediately give a copy of the overall statement of votes to the representatives.

The senior deputy returning officer shall retain a copy of the statement and a second copy for the returning officer for the purposes of section 244.".

6.33 **Separate envelopes**

The following is substituted for section 241 of the Act:

"**241.** After printing out the results compiled by each voting terminal in the polling place, the senior deputy returning officer shall:

(1) place the memory card used to record the results from each voting terminal in a small envelope bearing the serial number of the terminal concerned, seal the envelope and affix his initials, along with those of the representatives who wish to do so;

(2) place all the reports on the results compiled in an envelope, together with the partial statements and the overall statement of votes.".

6.34 **Seals**

The following is substituted for section 242 of the Act:

"**242.** The senior deputy returning officer shall place in a large envelope:

(1) the small envelopes prepared pursuant to paragraph 1 of section 241;

(2) the envelopes provided for in section 230.1;

(3) the card used in the polling place to place the terminals in "election" mode and "end of election" mode;

(4) the electronic voting cards.

The senior deputy returning officer shall seal the large envelope. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seal of the large envelope.".

6.35 **Placing in ballot box**

Section 243 of the Act is revoked.

6.36 **Delivery to returning officer**

The following is substituted for section 244 of the Act:

"**244.** The senior deputy returning officer shall deliver to the returning officer or the person designated by the returning officer

(1) the envelope containing the reports of the results compiled by each voting terminal, the partial statements and the overall statement of votes;

(2) the large envelope provided for in section 242.".

6.37 **Addition of votes**

The following is substituted for section 247 of the Act:

"**247.** The returning officer shall proceed with the addition of the votes using the overall statement of votes drawn up by each senior deputy returning officer.".

6.38 **Adjournment of the addition of votes**

The following is substituted for section 248 of the Act:

"**248.** The returning officer shall, if unable to obtain an overall statement of votes that should have been provided, adjourn the addition of votes until the statement is obtained.

Where it is not possible to obtain an overall statement of votes, or the printed report on the results and a partial statement of votes, the returning officer shall, in the presence of the senior deputy returning officer and the candidates in question or of their representatives if they so wish, print out a new report using the appropriate memory card for recording results and the copy of the partial statements of votes taken from the large envelope, opened in the presence of the aforementioned persons.".

6.39 **Placing in envelope**

The following is substituted for section 249 of the Act:

"**249.** After printing out the results, the returning officer shall place the memory card used to record results in an envelope, seal the envelope, and affix his initials and allow the candidates or their representatives to affix their initials if they so wish. He shall place the copy of the partial statements of votes in the large envelope, seal it, and allow the candidates or representatives present to affix their initials.".

6.40 **New counting of the votes**

Section 250 of the Act is revoked.

6.41 **Notice to the Minister**

The following is substituted for section 251 of the Act:

"**251.** Where it is impossible to obtain the electronic cards used to record the results, where applicable, the returning officer shall advise the Minister of Municipal Affairs, Sports and Recreation in accordance with Division III of Chapter XI.".

6.42 **Access to voting papers**

Section 261 of the Act is revoked.

6.43 **Application for a recount or re-addition**

The following is substituted for the first paragraph of section 262 of the Act:

"**262.** Any person who has reasonable grounds to believe that a voting terminal has produced an inaccurate statement of the number of votes cast, or that a deputy returning officer has drawn up an inaccurate partial statement of votes, or that a senior deputy returning officer has drawn up an inaccurate overall statement of votes, may apply for a new compilation of the results. The applications may be limited to one or more voting terminals, but the judge is not bound by that limitation.".

6.44 **Notice to candidates**

The following is substituted for section 267 of the Act:

"**267.** The judge shall give one clear day's advance notice in writing to the candidates concerned of the date, time and place at which he will proceed with the new compilation of the results or re-addition of the votes.

The judge shall summon the returning officer and order him to bring the electronic cards on which the results of the votes are recorded, the reports of the compiled results, and the partial and overall statements of vote. Where the new compilation is limited to one or certain polling subdivisions, the judge shall order only the electronic cards on which the results of the votes are recorded, the reports of the compiled results, and the partial and overall statements of votes he will need.".

6.45 **Procedure for a new compilation of results or re-addition of votes**

The following is substituted for section 268 of the Act:

"**268.** On the appointed day, the judge, in the presence of the returning officer shall, in the case of a new compilation of results, print out the results compiled by the voting terminal display or displays under inquiry.

In the case of a re-addition of votes, the judge shall examine the reports of the compiled results and the partial and overall statements of votes.

The candidates concerned or their mandataries and the returning officer may, at that time, examine all the documents and items examined by the judge.".

6.46 **Repeal**

Section 269 is revoked.

6.47 **Missing electronic card for recording results and partial statements of votes**

The following is substituted for the first paragraph of section 270 of the Act:

"**270.** If an electronic card on which results are recorded or a required document is missing, the judge shall use appropriate means to ascertain the results of the vote.".

6.48 **Custody of items and documents, and verification**

The following is substituted for sections 271, 272 and 273 of the Act:

"**271.** During a new compilation or a re-addition, the judge shall have custody of the voting system and of the items and documents entrusted to him.

272. As soon as the new compilation is completed, the judge shall confirm or rectify each report of compiled results and each report on a partial statement of votes and carry out a re-addition of the votes.

273. After completing the re-addition of the votes, the judge shall certify the results of the poll.

The judge shall give the returning officer the electronic cards used to record the results and all the other documents used to complete the new compilation or the re-addition.".

7. DURATION AND APPLICATION OF AGREEMENT

The returning officer of the municipality is responsible for the application of this agreement and, consequently, for the proper conduct of the trial application of the new method of voting during general elections and by-elections held before December 31, 2009.

8. AMENDMENT

The parties agree that this agreement may be amended if need be to ensure the proper conduct of the general election to be held on November 2nd, 2003 and of any subsequent election provided for in the agreement. Mention of that fact shall be made in the assessment report.

9. ASSESSMENT REPORT

Within 120 days following the general election held on November 2nd, 2003, the returning officer of the municipality shall forward, in accordance with section 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2), an assessment report to the Chief Electoral Officer and the Minister addressing, in particular, the following issues:

— the preparations for the election (choice of the new method of voting, communications plan, etc.);

— the conduct of the advance poll and the poll;

— the cost of using the electronic voting system:

– the cost of adapting election procedures;

– non-recurrent costs likely to be amortized;

– a comparison between the actual polling costs and the estimated polling costs using the new methods of voting and the projected cost of holding the general election on November 2nd, 2003 using traditional methods;

— the number and duration of incidents during which voting was stopped, if any;

— the advantages and disadvantages of using the new method of voting;

— the results obtained during the addition of the votes and the correspondence between the number of votes cast and the number of electors admitted to vote.

10. APPLICATION OF THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

The Act respecting elections and referendums in municipalities shall apply to the general election held on November 2nd, 2003 in the municipality, subject to the provisions of the Act that this agreement amends or replaces.

11. EFFECT OF AGREEMENT

This agreement has effect from the time when the returning officer performs the first act for the purposes of an election to which this agreement applies.

AGREEMENT SIGNED IN THREE COPIES:

In Beaupré, this 19th day of June, 2003

MUNICIPALITY OF BEAUPRÉ

By: _____
HENRI CLOUTIER, *Mayor*

_____
JOHANNE GAGNON, *Clerk*

In Québec, on this 27th day of June 2003

THE CHIEF ELECTORAL OFFICER

_____
MARCEL BLANCHET

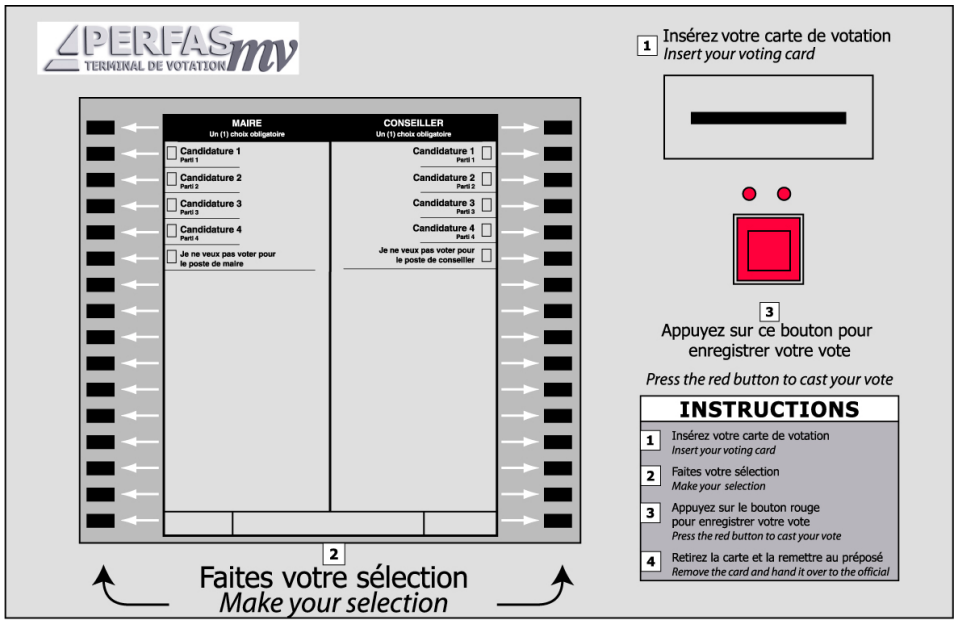
In Québec, on this 8th day of July 2003

THE MINISTER OF MUNICIPAL AFFAIRS, SPORTS AND RECREATION

By: _____
DENYS JEAN, *Deputy Minister*

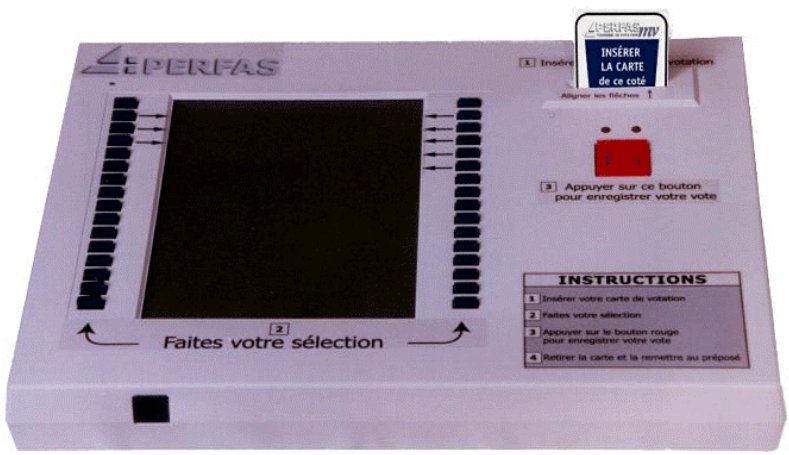
SCHEDULE I

BALLOT PAPER



SCHEDULE II

VOTING TERMINAL



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Gouvernement du Québec

Agreement

An Act respecting elections and referendums in municipalities
(R.S.Q., c. E-2.2)

AGREEMENT CONCERNING NEW METHODS OF VOTING USING "PERFAS-MV" BALLOT BOXES

AGREEMENT ENTERED INTO

BETWEEN

The MUNICIPALITY OF RIVIÈRE-DU-LOUP, a legal person established in the public interest, having its head office at 65, rue de l'Hôtel-de-Ville, C.P. 37, Rivière-du-Loup (Québec) G5R 3Y7, represented by the mayor, Mr Jean D'Amour and the clerk or secretary-treasurer, M^{e} Georges Deschênes, o.m.a., lawyer, under a resolution bearing number 369-2003, hereinafter called

THE MUNICIPALITY

AND

Mtre Marcel Blanchet, in his capacity as CHIEF ELECTORAL OFFICER OF QUÉBEC, duly appointed to that office under the Election Act (R.S.Q., c. E-3.3), acting in that capacity and having his main office at 3460, rue de La Pérade, Sainte-Foy, Province of Québec, hereinafter called

THE CHIEF ELECTORAL OFFICER

AND

the Honourable Jean-Marc Fournier, in his capacity as MINISTER OF MUNICIPAL AFFAIRS, SPORTS AND RECREATION, having his main office at 10, rue Pierre-Olivier-Chauveau, Québec, Province of Québec, hereinafter called

THE MINISTER

WHEREAS the council of the MUNICIPALITY, by its resolution number 369-2003, passed at its meeting of June 9, 2003 expressed the desire to avail itself of the provisions of the Act respecting elections and referendums in municipalities to enter into an agreement with the CHIEF ELECTORAL OFFICER and the MINISTER in order to allow the use of electronic ballot boxes for the general election of November 2, 2003 in the MUNICIPALITY;

WHEREAS sections 659.2 and 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) provide the following:

"**659.2.** A municipality may, in accordance with an agreement made with the Minister of Municipal Affairs and Greater Montréal and the Chief Electoral Officer, test new methods of voting during a poll. The agreement may provide that it also applies to polling held after the poll for which the agreement was entered into; in such case, the agreement shall provide for its period of application.

The agreement must describe the new methods of voting and mention the provisions of this Act it amends or replaces.

The agreement has the effect of law.

659.3. After polling during which a test mentioned in section 659.2 is carried out, the municipality shall send a report assessing the test to the Minister of Municipal Affairs and Greater Montréal and the Chief Electoral Officer.";

WHEREAS the MUNICIPALITY expressed the desire to avail itself of those provisions for the general election held on November 2, 2003 and could, with the necessary adaptations, avail itself of those provisions for elections held after the date of the agreement, the necessary adaptations to be included in an addendum to this agreement;

WHEREAS it is expedient to provide the procedure that applies to the territory of the MUNICIPALITY for that general election;

WHEREAS an agreement must be entered into between the MUNICIPALITY, the CHIEF ELECTORAL OFFICER and the MINISTER;

WHEREAS the MUNICIPALITY is solely responsible for the technological choice elected;

WHEREAS the council of the MUNICIPALITY passed, at its meeting of June 9, 2003 resolution number 369-2003 approving the text of the agreement and authorizing the mayor and the clerk or secretary-treasurer to sign this agreement;

WHEREAS the returning officer of the MUNICIPALITY is responsible for the application of this agreement and the means necessary to carry it out;

THEREFORE, the parties agree to the following:

1. PREAMBLE

The preamble to this agreement is an integral part of the agreement.

2. INTERPRETATION

Unless stated otherwise, expressly or as a result of the context of a provision, the following expressions, terms and words have, for the purposes of this agreement, the meaning and application given in this section.

2.1 "electronic voting system" means an apparatus consisting of the following devices:

— a computer containing in its memory the list of electors, used for the preparation of electronic voting cards;

— a reader of electronic voting cards;

— one or more printers;

— one or more autonomous voting terminals;

— electronic cards used to place the terminals in "election" mode, to vote (electronic voting cards), to place the terminals in "end of election" mode, and to record the results from each autonomous voting terminal;

2.2 "voting terminal" means an independent device containing a display with a graphical representation of a ballot paper, buttons used by electors to vote, and a memory card to record and compile the votes cast by electors;

2.3 "electronic card reader" means a device allowing the information required for an elector to vote to be transferred onto an electronic card;

2.4 "rejected ballot paper" means a ballot paper for which the button corresponding to "I do not wish to vote for the office of mayor" or "I do not wish to vote for the office of councillor" has been pushed by an elector on the voting terminal;

2.5 "operations trail" means a print-out of the operations (audit) of a voting terminal.

3. ELECTION

3.1 For the purposes of the general election of November 2, 2003 in the municipality, a sufficient number of "PERFAS-MV" model electronic voting systems will be used.

3.2 Before the publication of the notice of election, the municipality must take the necessary steps to provide its electors with adequate information concerning the testing of the new method of voting.

4. SECURITY MECHANISMS

Each electronic voting system must include the following security mechanisms:

1) a report displaying a total of "zero" must be automatically produced by the electronic ballot box when a voting terminal is turned on on the first day of advance polling and on polling day;

2) a verification report must be generated on a continuous basis and automatically saved on the memory card of the voting terminal, and must record each procedural operation;

3) a mechanism which prevents a voting terminal from being placed in "end of election" mode while polling is still under way, because the terminal can only be placed in "end of election" mode by the insertion of an "end of election" card;

4) a mechanism to ensure that the compilation of results is not affected by any type of interference once the electronic ballot box has been placed in "election" mode;

5) each voting terminal must be equipped with seals, two to prevent the opening of the box and one covering the screws of the voting terminal;

6) each voting terminal must be equipped with a back-up power source (battery) able to operate for two to five hours, unless all the terminals are connected to a generator;

7) if a voting terminal is defective, its internal memory card may be removed and transferred immediately into another voting terminal in order to allow the procedure to continue.

5. PROGRAMMING

Each electronic voting system used is specially programmed by the firm PG Elections inc. for the municipality in order to recognize and tally ballot papers in accordance with this agreement.

6. AMENDMENTS TO THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

6.1 **Election officers**

Section 68 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) is amended by inserting the words "senior deputy returning officer, assistant to the senior deputy returning officer" after the word "assistant,".

6.2 **Senior deputy returning officer, assistant to the senior deputy returning officer, deputy returning officer and poll clerk**

The following is substituted for section 76 of the Act:

"**76.** The returning officer shall appoint the number of senior deputy returning officers and assistants to the senior deputy returning officer that he deems necessary for each polling place.

The returning officer shall appoint a deputy returning officer and a poll clerk for each polling station.".

6.3 **Duties of the senior deputy returning officer, assistant to the senior deputy returning officer and deputy returning officer**

The following is substituted for section 80 of the Act:

"**80.** The senior deputy returning officer shall, in particular,

(1) see to the installation and preparation of the electronic voting systems (voting terminal and electronic card reader);

(2) ensure that the polling is properly conducted and maintain order in the vicinity of the voting terminals in the polling place;

(3) facilitate the exercise of the right to vote and ensure that voting is secret;

(4) ensure that the electronic voting systems function correctly;

(5) print out the results compiled by the voting terminals at the closing of the poll;

(6) complete an overall statement of votes from the partial statements and the results compiled by each voting terminal;

(7) give the returning officer, at the closing of the poll, the results compiled by each voting terminal, the overall statement of votes and the number of electors at each polling station who were given an electronic voting card;

(8) give the returning officer the memory card on which the results of each voting terminal are recorded, the card used to place terminals in "end of election" mode, and the voting terminals in sealed cases.

80.1. The assistant to the deputy returning officer shall, in particular,

(1) assist the senior deputy returning officer in the latter's duties;

(2) receive any elector referred by the senior deputy returning officer;

(3) verify the polling booths in the polling place.

80.2. The deputy returning officer shall, in particular,

(1) see to the arrangement of the polling station;

(2) see that the polling is properly conducted and maintain order at the polling station;

(3) facilitate the exercise of the right to vote and ensure that voting is secret;

(4) receive proof of identity from electors;

(5) give electors an electronic voting card to exercise their right to vote;

(6) check that each electronic voting card returned after the vote has been used. If a card has not been used, a record shall be made in the poll book that an elector has failed to exercise the right to vote;

(7) at the close of the poll, give the senior deputy returning officer a statement indicating the total number of electors given an electronic voting card by the deputy returning officer at the polling station.".

6.4 **Discretion of the Chief Electoral Officer upon observing an error, emergency or exceptional circumstance**

The following is substituted for section 90.5 of the Act:

"**90.5.** Where, during the election period, within the meaning of section 364, it comes to the attention of the Chief Electoral Officer that, subsequent to an error, emergency or exceptional circumstance, a provision referred to in section 90.1 or in the agreement provided for in section 659.2 of the Act respecting elections and referendums in municipalities does not meet the demands of the resultant situation, the Chief Electoral Officer may adapt the provision in order to achieve its object.

The Chief Electoral Officer shall first inform the Minister of Municipal Affairs, Sports and Recreation of the decision he intends to make.

Within 30 days following polling day, the Chief Electoral Officer shall transmit to the President or the Secretary General of the National Assembly a report of the decisions made pursuant to the first paragraph. The President shall table the report in the National Assembly within 30 days of receiving it or, if the National Assembly is not sitting, within 30 days of resumption.".

6.5 **Notice of election**

The following is added after paragraph 7 of section 99:

"(8) the fact that the method of voting is by means of an electronic voting system.".

6.6 **Polling subdivisions**

The following is substituted for section 104 of the Act:

"**104.** The returning officer shall divide the list of electors into polling subdivisions, each comprising not more than 750 electors.

The returning officer shall provide a sufficient number of polling stations at each polling place to receive electors, establish their identity and give them an electronic voting card.

In the polling place, the electors may report to any polling station. They shall be directed to the first available voting terminal to exercise their right to vote.".

6.7 **Verification of electronic voting systems**

The Act is amended by inserting the following subdivision after subdivision 1 of Division IV of Chapter VI of Title I:

"***§1.1*** *Verification of electronic voting systems*

"**173.1.** The returning officer shall, not later than the fifth day preceding the first day of advance polling and the fifth day preceding polling day, test the electronic voting system to ensure that it tallies the number of votes cast accurately and precisely, in the presence of the candidates or their representatives if they so wish.

173.2. During the testing of the electronic voting system, adequate security measures must be taken by the returning officer to guarantee the integrity of the system as a whole and of each component used to record, compile and memorize results. The returning officer must ensure that no electronic communication that could change the programming of the system, the recording of data, the tallying of votes, the memorization of results or the integrity of the system as a whole may be established.

173.3. The returning officer shall conduct the test by performing the following operations:

(1) he shall prepare a pre-determined number of electronic voting cards and transfer onto them the information relating to one of the positions to be filled;

(2) he shall record on the voting terminal a pre-determined number of votes that have been manually tallied. The votes shall include:

(a) a pre-determined number of votes in favour of one of the candidates for the office of mayor and councillor;

(b) a pre-determined number of votes corresponding to the statement "I do not wish to vote for the office of mayor" or "I do not wish to vote for the office of councillor";

(c) a pre-determined number of votes for a candidate for the office of mayor and the same pre-determined number of votes for a candidate for a position as a councillor;

(3) he shall ensure that it is not possible to record more than one vote for the same position;

(4) he shall ensure that the button used to record a vote can be pushed only after the button used to vote for the mayor or corresponding to the statement "I do not wish to vote for the office of mayor", and the button used to vote for a councillor or corresponding to the statement "I do not wish to vote for the office of councillor", have been pushed;

(5) he shall ensure that the information relating to the positions to be filled contained on the electronic voting cards is consistent with the information transferred to the cards by the returning officer;

(6) he shall place the system in "end of election" mode and ensure that the results compiled by the voting terminal are consistent with the results compiled manually;

(7) once the test has been successfully completed, he shall reset the voting terminal to zero and replace it in a sealed case; the candidates or their representatives may affix their signature if they so wish;

(8) where an error in the compilation of the results compiled by the terminals is detected, the returning officer shall determine with certitude the cause of error, proceed with a further test, and repeat the operation until a perfect compilation of results is obtained; any error or discrepancy shall be noted in the test report;

(9) he may not change the programming established by the firm PG Elections inc.".

6.8 **Advance polling**

The following is substituted for sections 182, 183 and 185 of the Act:

"**182.** At the close of the advance polling station, the poll clerk shall enter the following particulars in the poll book:

(1) the number of electors who were given an electronic voting card;

(2) the total number of votes recorded on each terminal, as transmitted by the senior deputy returning officer;

(3) the names of the persons who performed duties as election officers or as representatives.

The deputy returning officer shall place in separate envelopes the forms, the verification reports printed out at each terminal, the poll book and the list of electors, and shall then seal the envelopes. The deputy returning officer, the poll clerk and the representatives who wish to do so shall affix their initials to the seals of the envelopes. The envelopes, except the envelope containing the list of electors, shall be given to the senior deputy returning officer for deposit in a large envelope. The large envelope shall be sealed. The persons present may affix their initials to the seal.

182.1. At the close of the advance polling station, the senior deputy returning officer shall:

(1) place the voting terminals in "end of election" mode;

(2) transfer the data contained in the memory of the electronic ballot box onto a memory card;

(3) print the operations trail (audit);

(4) place the memory card (memory chip) and the operations trail in separate envelopes, and seal the envelopes;

(5) forward the envelopes to the returning officer, who shall keep them safely in separated locations;

(6) set each voting terminal to zero, seal it and place it in its plastic case;

(7) affix his initials to all the seals and give the candidates or representatives present an opportunity to affix their initials.

182.2. The senior deputy returning officer shall place the card used to place the terminals in "election" mode and "end of election" mode in the large envelope.

The senior deputy returning officer shall seal the large envelope and each terminal. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seal of the large envelope.

The senior deputy returning officer shall then give the large envelope, the envelopes containing the list of electors, the memory card and the operations trail, as well as the voting terminals, to the returning officer or the person designated by the returning officer.

The returning officer shall keep in safety, in separate locations, the envelopes containing the memory card and the operations trail.

182.3. The returning officer shall, using the various lists of electors used in the advance polling, draw up an integrated list of all the electors who voted in the advance poll. The returning officer shall make as many copies of the list as there are to be polling stations on polling day.

183. Immediately before the time fixed for the opening of the polling station on the second day, where applicable, the senior deputy returning officer, before the persons present, shall open the large envelope and give each deputy returning officer the poll books and the forms. Each deputy returning officer shall open the envelopes and take custody of their contents.

The senior deputy returning officer shall take possession of the verification reports indicating the total number of votes recorded on each terminal, the card used to place the terminals in "election" mode and the card used to place the terminals in "end of election" mode.

The senior deputy returning officer shall verify for each terminal, using the memory card, that the number of votes recorded matches the number entered the previous day in the poll book by the poll clerk for that polling station.

The returning officer, or the person designated by the returning officer, shall return the list of electors to each deputy returning officer.

At the close of the advance poll on the second day, the senior deputy returning officer, the returning officer and the poll clerk shall perform the same actions as at the close of the advance poll on the first day.".

"**185.** From 7:00 p.m. on polling day, the returning officer or the person designated by the returning officer shall, using the memory card or cards on which the results are recorded, print out the results compiled by each voting terminal used in the advance poll in the presence of the deputy returning officers, the poll clerks and the representatives who wish to be present.

The results shall be printed out at the location determined by the returning officer. The print-out shall be performed in accordance with the rules applicable to the printing-out of the results from polling day, adapted as required.".

6.9 **Revocation**

Sections 186 and 187 of the Act are revoked.

6.10 **Polling place**

The following is substituted for the first paragraph of section 188 of the Act:

"**188.** The polling place must be in premises that are spacious and easily accessible to the public.".

6.11 **Booths**

The following is substituted for section 191 of the Act:

"**191.** Where electronic voting systems are used in an election, each polling station shall have the number of polling booths determined by the returning officer.".

6.12 **Ballot papers and electronic voting cards**

The following is substituted for section 192 of the Act:

"**192.** The returning officer shall ensure that a sufficient number of electronic voting cards are available to facilitate the exercise of the electors' right to vote.".

The following is substituted for sections 193 to 195 of the Act:

"**193.** The graphical representation of a ballot paper that appears on the voting terminal shall be consistent with the model set out in Schedule I to the agreement provided for in section 659.2 of the Act respecting elections and referendums in municipalities.".

6.13 **Identification of the candidates**

The following is substituted for section 196 of the Act:

"**196.** The graphical representation of a ballot paper that appears on the voting terminal must allow each candidate to be identified.

Depending on the number of positions to be filled, the representation shall have one or more columns on one or more pages, showing:

(1) the name of each candidate, the given name preceding the surname;

(2) under each name, the name of the authorized party or recognized ticket to which the candidate belongs, where such is the case;

(3) a rectangle for the elector's mark opposite the particulars pertaining to each candidate.

All rectangles, as the space between consecutive rectangles, must be of the same size.

Where several independent candidates for the same office have the same name, the graphical representation of the ballot paper used in the polling for that office shall indicate the address of each candidate under the candidate's name and, where such is the case, above the indication of the candidate's political affiliation.

The particulars must appear in alphabetical order of the candidates' surnames and, as the case may be, of the candidates' given names. Where two or more candidates for the same office have the same name, the order in which the particulars relating to each of them appear shall be determined by a drawing of lots carried out by the returning officer.

The particulars pertaining to the candidates must correspond to those contained in the nomination papers, unless, in the meantime, the authorization of the party or the recognition of the ticket has been withdrawn, or the name of the party or ticket appearing on the nomination papers is inaccurate.".

6.14 **Reverse of ballot paper**

Section 197 is revoked.

6.15 **Withdrawal of a candidate**

The following is substituted for section 198 of the Act:

"**198.** Where an electronic voting system is used in an election, the returning officer shall ensure that the memory card is adjusted so that it does not take into account the candidates who have withdrawn.

Any vote in favour of those candidates before or after their withdrawal is null.".

6.16 **Withdrawal of authorization or recognition**

The following is substituted for section 199 of the Act:

"**199.** Where electronic voting systems are used in an election, the returning officer shall ensure that they are adjusted so that they do not take into account the party or ticket from which authorization or recognition has been withdrawn.".

6.17 **Number of voting terminals**

The following is substituted for sections 200 and 201 of the Act:

"**200.** The returning officer shall ensure that a sufficient number of electronic voting systems are available for the election.

201. The upper surface of the voting terminal must be in conformity with the model described in Schedule II to this Agreement.

The voting terminal must be designed so that the button used to vote for a candidate is placed opposite the particulars relating to that candidate.

The instructions to the electors on how to vote must be clearly indicated on the upper surface of the voting terminal.".

6.18 **Provision of polling materials**

The following is substituted for section 204 of the Act:

"**204.** Not later than one hour before the time fixed for the opening of the polling station, the returning officer shall give or make available to the deputy returning officer, in a sealed envelope, after affixing his initials to the seals,

(1) the copy of the list of electors for the polling subdivision used for the advance poll and comprising the electors who are entitled to vote at that polling station;

(2) a poll book;

(3) electronic voting cards;

(4) the forms and other documents necessary for the poll and the closing of the polling station.

The returning officer shall give or make available to the deputy returning officer, as well as to the senior deputy returning officer, any other materials required for the poll, the closing of the polling office, and the tallying and the recording of votes.".

6.19 **Examination of polling materials and documents**

The following is substituted for section 207 of the Act:

"**207.** In the hour preceding the opening of the polling stations, the senior deputy returning officer, before the persons present, shall initialize the electronic voting system for the polling place. The senior deputy returning officer shall ensure that the system computer displays a total of zero electors having voted, and that each voting terminal displays a total of zero recorded votes, by verifying the printed reports from those devices.

The senior deputy returning officer shall ensure that as many small envelopes are available for the memory cards used to record results as there are voting terminals under his responsibility.

The senior deputy returning officer must inform the returning officer of any discrepancy observed upon activating a voting terminal or during the poll.

The senior deputy returning officer shall keep the reports and show them to any person present who wishes to examine them.

The senior deputy returning officer must, in addition, before the persons present, ensure that two seals are affixed to each terminal.

In the hour preceding the opening of the polling stations, each deputy returning officer and poll clerk shall examine the polling documents and materials provided by the returning officer.".

POLLING PROCEDURE

6.20 **Presence at the polling station**

The following is substituted for the third paragraph of section 214 of the Act:

"In addition, only the deputy returning officer, the poll clerk and the representatives assigned to the polling station, together with the returning officer, the election clerk, the assistant to the returning officer, the senior deputy returning officer and the assistant to the senior deputy returning officer may be present at the station. The officer in charge of information and order may be present, at the request of the deputy returning officer for as long as may be required. The poll runner may be present for the time required to perform his duties. Any other person assisting an elector under section 226 may be present for the time required to enable the elector to exercise his right to vote.".

6.21 **Electronic voting cards**

The following is substituted for section 221 of the Act:

"**221.** The deputy returning officer shall give each elector admitted to vote an electronic voting card to which the information required to exercise the right to vote has been transferred.

In no case may the information transferred to the card allow a link to be established between the casting of a vote and the identity of an elector.".

6.22 **Voting**

The following is substituted for section 222 of the Act:

"**222.** The elector shall enter the polling booth and exercise the right to vote by:

(1) inserting the electronic voting card in the opening provided for that purpose and clearly identified on the upper surface of the voting terminal;

(2) pressing the button placed opposite the particulars relating to the candidate in whose favour the elector wishes to vote as mayor and councillor or councillors, causing a mark to appear in the rectangle;

(3) recording the vote by pressing the red button placed on the upper surface of the voting terminal, causing the red lights placed above the button to go out.".

6.23 **Following the vote**

The following is substituted for section 223 of the Act:

"**223.** After removing the electronic voting card from the voting terminal, the elector shall leave the booth and give the electronic voting card to the polling officer designated for that purpose by the returning officer.

If an elector indicates one or more votes but leaves the booth without recording them, the senior deputy returning officer or the latter's assistant shall record the votes.

If an elector fails to indicate and record one or more votes and leaves the polling place, the senior deputy returning officer or the latter's assistant shall press the button corresponding to the statement "I do not wish to vote for the office of mayor" or "I do not wish to vote for the office of councillor" or both, as the case may be, and shall then record the voter's vote.

The electronic voting card shall then be removed from the voting terminal and given to the deputy returning officer. The occurrence shall be recorded in the poll book.".

6.24 **Cancelled and spoiled ballot papers**

Sections 224 and 225 of the Act are revoked.

6.25 **Assistance for electors**

The following is substituted for section 226 of the Act:

"**226.** An elector who declares under oath, before the senior deputy returning officer or the assistant to the senior deputy returning officer, that he is unable to use the electronic ballot box or to vote, may be assisted either:

(1) by a person who is the elector's spouse or a relative within the meaning of section 131;

(2) by the senior deputy returning officer, in the presence of the assistant to the senior deputy returning officer.

A deaf or mute elector may be assisted, for the purposes of communicating with the election officers and representatives, by a person capable of interpreting the sign language of the deaf.

The senior deputy returning officer shall advise the deputy returning officer concerned that an elector has availed himself of this section, and the occurrence shall be entered in the poll book.".

6.26 **Transfer of information to electronic voting cards**

The following is substituted for section 228 of the Act:

"**228.** The electronic voting system shall ensure that the information required for an elector to exercise the right to vote is transferred once only to the electronic voting card.".

6.27 **Compilation of results and tallying of votes**

The following is substituted for section 229 of the Act:

"**229.** After the closing of the poll, the senior deputy returning officer shall compile the results by:

(1) placing the election terminals of the polling place in "end of election" mode;

(2) recording the results of each voting terminal;

(3) printing out the results compiled by each voting terminal.

The reports on the compiled results shall indicate the total number of voters who have voted, the number of valid votes, the number of rejected ballot papers and the number of votes for each candidate.

The senior deputy returning officer shall gather from each poll clerk the number of electors admitted to vote.

The senior deputy returning officer shall allow each person present to consult the results.".

6.28 **Entries in poll book**

The following is substituted for section 230 of the Act:

"**230.** After the closing of the poll, the poll clerk of each polling station shall enter in the poll book:

(1) the number of electors who have voted;

(2) the names of the persons who have performed duties as election officers or as representatives assigned to that polling station.

230.1. The deputy returning officer shall place the poll book and the list of electors in separate envelopes.

The deputy returning officer shall seal the envelopes, and the representatives assigned to the polling station who wish to do so shall affix their initials to the seals.

The deputy returning officer shall then give the envelopes to the senior deputy returning officer.".

6.29 **Compiling sheet**

Section 231 of the Act is revoked.

6.30 **Counting of the votes**

Section 232 of the Act is revoked.

6.31 **Rejected ballot papers**

The following is substituted for section 233 of the Act:

"**233.** The electronic voting system shall be programmed in such a way that every ballot paper for which the button corresponding to "I do not wish to vote for the office of mayor" or "I do not wish to vote for the office of councillor" is pushed by the elector on the voting terminal is rejected.

For the purposes of the poll, the memory card shall be programmed in such a way that the electronic voting system processes and conserves all the votes cast, in other words both the valid ballot papers and the rejected ballot papers.".

Sections 234 to 237 of the Act are revoked.

6.32 **Partial statement of votes and copy for representatives**

The following is substituted for sections 238 and 240 of the Act:

"**238.** The deputy returning officer shall draw up the partial statement of votes, setting out the total number of electors admitted to vote.

A separate statement shall be drawn up for each polling station.

The deputy returning officer shall draw up sufficient copies of the partial statement of votes for himself, the senior deputy returning officer, the returning officer and every representative assigned to the polling station.

238.1 Using the partial statements of votes and the results compiled by the electronic voting system, the senior deputy returning officer shall draw up an overall statement of votes.".

"**240.** The senior deputy returning officer shall immediately give a copy of the overall statement of votes to the representatives.

The senior deputy returning officer shall retain a copy of the statement and a second copy for the returning officer for the purposes of section 244.".

6.33 **Separate envelopes**

The following is substituted for section 241 of the Act:

"**241.** After printing out the results compiled by each voting terminal in the polling place, the senior deputy returning officer shall:

(1) place the memory card used to record the results from each voting terminal in a small envelope bearing the serial number of the terminal concerned, seal the envelope and affix his initials, along with those of the representatives who wish to do so;

(2) place all the reports on the results compiled in an envelope, together with the partial statements and the overall statement of votes.".

6.34 **Seals**

The following is substituted for section 242 of the Act:

"**242.** The senior deputy returning officer shall place in a large envelope:

(1) the small envelopes prepared pursuant to paragraph 1 of section 241;

(2) the envelopes provided for in section 230.1;

(3) the card used in the polling place to place the terminals in "election" mode and "end of election" mode;

(4) the electronic voting cards.

The senior deputy returning officer shall seal the large envelope. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seal of the large envelope.".

6.35 **Placing in ballot box**

Section 243 of the Act is revoked.

6.36 **Delivery to returning officer**

The following is substituted for section 244 of the Act:

"**244.** The senior deputy returning officer shall deliver to the returning officer or the person designated by the returning officer

(1) the envelope containing the reports of the results compiled by each voting terminal, the partial statements and the overall statement of votes;

(2) the large envelope provided for in section 242.".

6.37 **Addition of votes**

The following is substituted for section 247 of the Act:

"**247.** The returning officer shall proceed with the addition of the votes using the overall statement of votes drawn up by each senior deputy returning officer.".

6.38 **Adjournment of the addition of votes**

The following is substituted for section 248 of the Act:

"**248.** The returning officer shall, if unable to obtain an overall statement of votes that should have been provided, adjourn the addition of votes until the statement is obtained.

Where it is not possible to obtain an overall statement of votes, or the printed report on the results and a partial statement of votes, the returning officer shall, in the presence of the senior deputy returning officer and the candidates in question or of their representatives if they so wish, print out a new report using the appropriate memory card for recording results and the copy of the partial statements of votes taken from the large envelope, opened in the presence of the aforementioned persons.".

6.39 **Placing in envelope**

The following is substituted for section 249 of the Act:

"**249.** After printing out the results, the returning officer shall place the memory card used to record results in an envelope, seal the envelope, and affix his initials and allow the candidates or their representatives to affix their initials if they so wish. He shall place the copy of the partial statements of votes in the large envelope, seal it, and allow the candidates or representatives present to affix their initials.".

6.40 **New counting of the votes**

Section 250 of the Act is revoked.

6.41 **Notice to the Minister**

The following is substituted for section 251 of the Act:

"**251.** Where it is impossible to obtain the electronic cards used to record the results, where applicable, the returning officer shall advise the Minister of Municipal Affairs, Sports and Recreation in accordance with Division III of Chapter XI.".

6.42 **Access to voting papers**

Section 261 of the Act is revoked.

6.43 **Application for a recount or re-addition**

The following is substituted for the first paragraph of section 262 of the Act:

"**262.** Any person who has reasonable grounds to believe that a voting terminal has produced an inaccurate statement of the number of votes cast, or that a deputy returning officer has drawn up an inaccurate partial statement of votes, or that a senior deputy returning officer has drawn up an inaccurate overall statement of votes, may apply for a new compilation of the results. The applications may be limited to one or more voting terminals, but the judge is not bound by that limitation.".

6.44 **Notice to candidates**

The following is substituted for section 267 of the Act:

"**267.** The judge shall give one clear day's advance notice in writing to the candidates concerned of the date, time and place at which he will proceed with the new compilation of the results or re-addition of the votes.

The judge shall summon the returning officer and order him to bring the electronic cards on which the results of the votes are recorded, the reports of the compiled results, and the partial and overall statements of vote. Where the new compilation is limited to one or certain polling subdivisions, the judge shall order only the electronic cards on which the results of the votes are recorded, the reports of the compiled results, and the partial and overall statements of votes he will need.".

6.45 **Procedure for a new compilation of results or re-addition of votes**

The following is substituted for section 268 of the Act:

"**268.** On the appointed day, the judge, in the presence of the returning officer shall, in the case of a new compilation of results, print out the results compiled by the voting terminal display or displays under inquiry.

In the case of a re-addition of votes, the judge shall examine the reports of the compiled results and the partial and overall statements of votes.

The candidates concerned or their mandataries and the returning officer may, at that time, examine all the documents and items examined by the judge.".

6.46 **Repeal**

Section 269 is revoked.

6.47 **Missing electronic card for recording results and partial statements of votes**

The following is substituted for the first paragraph of section 270 of the Act:

"**270.** If an electronic card on which results are recorded or a required document is missing, the judge shall use appropriate means to ascertain the results of the vote.".

6.48 **Custody of items and documents, and verification**

The following is substituted for sections 271, 272 and 273 of the Act:

"**271.** During a new compilation or a re-addition, the judge shall have custody of the voting system and of the items and documents entrusted to him.

272. As soon as the new compilation is completed, the judge shall confirm or rectify each report of compiled results and each report on a partial statement of votes and carry out a re-addition of the votes.

273. After completing the re-addition of the votes, the judge shall certify the results of the poll.

The judge shall give the returning officer the electronic cards used to record the results and all the other documents used to complete the new compilation or the re-addition.".

7. DURATION AND APPLICATION OF AGREEMENT

The returning officer of the municipality is responsible for the application of this agreement and, consequently, for the proper conduct of the trial application of the new method of voting during general elections and by-elections held before December 31, 2013.

8. AMENDMENT

The parties agree that this agreement may be amended if need be to ensure the proper conduct of the general election to be held on November 2, 2003 and of any subsequent election provided for in the agreement. Mention of that fact shall be made in the assessment report.

9. ASSESSMENT REPORT

Within 120 days following the general election held on November 2, 2003 the returning officer of the municipality shall forward, in accordance with section 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2), an assessment report to the Chief Electoral Officer and the Minister addressing, in particular, the following issues:

— the preparations for the election (choice of the new method of voting, communications plan, etc.);

— the conduct of the advance poll and the poll;

— the cost of using the electronic voting system:

– the cost of adapting election procedures;

– non-recurrent costs likely to be amortized;

– a comparison between the actual polling costs and the estimated polling costs using the new methods of voting and the projected cost of holding the general election on November 2, 2003 using traditional methods;

— the number and duration of incidents during which voting was stopped, if any;

— the advantages and disadvantages of using the new method of voting;

— the results obtained during the addition of the votes and the correspondence between the number of votes cast and the number of electors admitted to vote.

10. APPLICATION OF THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

The Act respecting elections and referendums in municipalities shall apply to the general election held on November 2, 2003 in the municipality, subject to the provisions of the Act that this agreement amends or replaces.

11. EFFECT OF AGREEMENT

This agreement has effect from the time when the returning officer performs the first act for the purposes of an election to which this agreement applies.

AGREEMENT SIGNED IN THREE COPIES:

In Rivière-du-Loup, this 17th day of June 2003

MUNICIPALITY OF RIVIÈRE-DU-LOUP

By: _____
JEAN D'AMOUR, *Mayor*

_____
M^e GEORGES DESCHÊNES,
Clerk or secretary-treasurer of the municipality

In Québec, on this 25th day of June 2003

THE CHIEF ELECTORAL OFFICER

_____
MARCEL BLANCHET

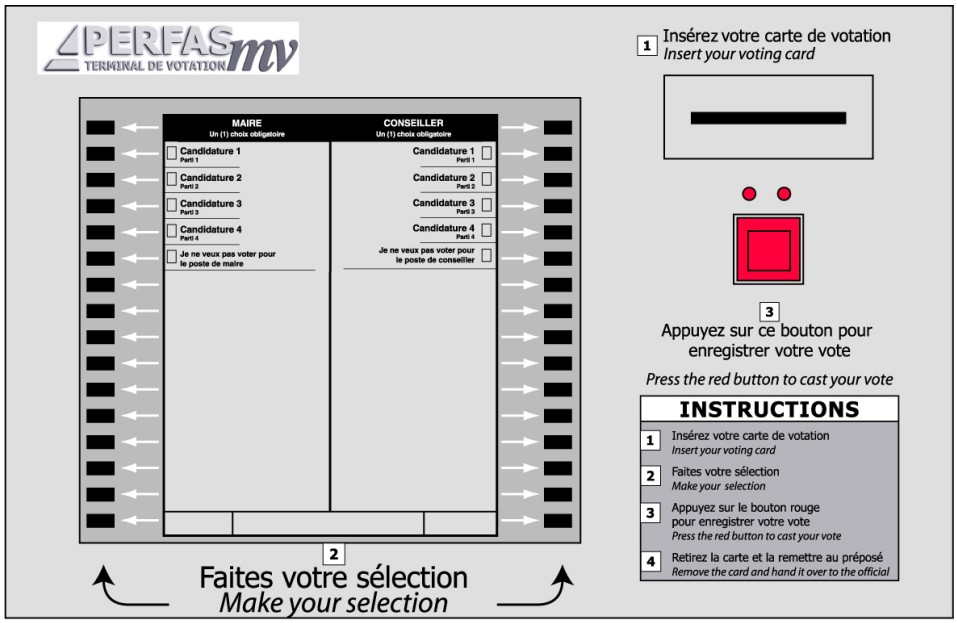
In Québec, on this 8th day of July 2003

THE MINISTER OF MUNICIPAL AFFAIRS, SPORTS AND RECREATION

By: _____
DENYS JEAN, *Deputy Minister*

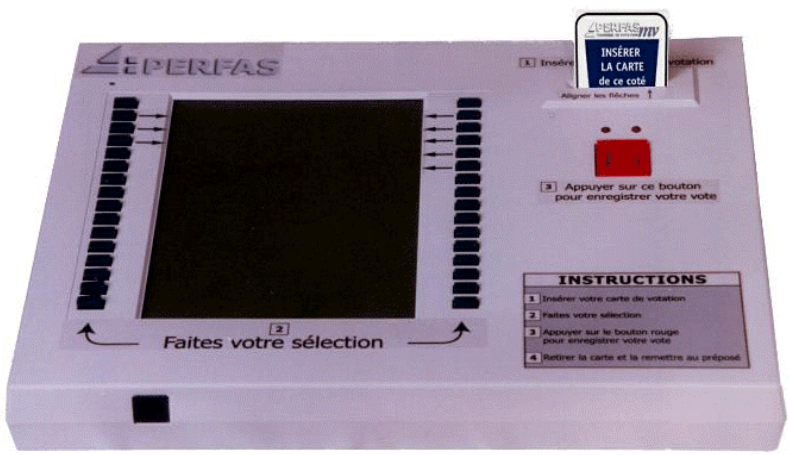
SCHEDULE I

BALLOT PAPER



SCHEDULE II

VOTING TERMINAL



5856

Gouvernement du Québec

Agreement

An Act respecting elections and referendums in municipalities
(R.S.Q., c. E-2.2)

AGREEMENT CONCERNING NEW METHODS OF VOTING USING "PERFAS-MV" BALLOT BOXES

AGREEMENT ENTERED INTO

BETWEEN

The MUNICIPALITY OF SAINT-ANDRÉ-D'ARGENTEUIL, a legal person established in the public interest, having its head office at 10, rue de la Mairie, Saint-André-d'Argenteuil, Province of Québec, represented by the mayor, Daniel Beaulieu and the clerk or secretary-treasurer, Linne Roquebrune under a resolution bearing number 2003-06-R211, hereinafter called

THE MUNICIPALITY

AND

Mtre Marcel Blanchet, in his capacity as CHIEF ELECTORAL OFFICER OF QUÉBEC, duly appointed to that office under the Election Act (R.S.Q., c. E-3.3), acting in that capacity and having his main office at 3460, rue de La Pérade, Sainte-Foy, Province of Québec, hereinafter called

THE CHIEF ELECTORAL OFFICER

AND

the Honourable Jean-Marc Fournier, in his capacity as MINISTER OF MUNICIPAL AFFAIRS, SPORTS AND RECREATION, having his main office at 10, rue Pierre-Olivier-Chauveau, Québec, Province of Québec, hereinafter called

THE MINISTER

WHEREAS the council of the MUNICIPALITY, by its resolution No. 2003-06-R189, passed at its meeting of June 2, 2003, expressed the desire to avail itself of the provisions of the Act respecting elections and referendums in municipalities to enter into an agreement with the CHIEF ELECTORAL OFFICER and the MINISTER in order to allow the use of electronic ballot boxes for the regular election of November 2, 2003 in the MUNICIPALITY;

WHEREAS sections 659.2 and 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) provide the following:

"**659.2.** A municipality may, in accordance with an agreement made with the Minister of Municipal Affairs and Greater Montréal and the Chief Electoral Officer, test new methods of voting during a poll. The agreement may provide that it also applies to polling held after the poll for which the agreement was entered into; in such case, the agreement shall provide for its period of application.

The agreement must describe the new methods of voting and mention the provisions of this Act it amends or replaces.

The agreement has the effect of law.

659.3. After polling during which a test mentioned in section 659.2 is carried out, the municipality shall send a report assessing the test to the Minister of Municipal Affairs and Greater Montréal and the Chief Electoral Officer.";

WHEREAS the MUNICIPALITY expressed the desire to avail itself of those provisions for the regular election held on November 2, 2003 and could, with the necessary adaptations, avail itself of those provisions for elections held after the date of the agreement, the necessary adaptations to be included in an addendum to this agreement;

WHEREAS it is expedient to provide the procedure that applies to the territory of the MUNICIPALITY for that regular election of November 2, 2003;

WHEREAS an agreement must be entered into between the MUNICIPALITY, the CHIEF ELECTORAL OFFICER and the MINISTER;

WHEREAS the MUNICIPALITY is solely responsible for the technological choice elected;

WHEREAS the council of the MUNICIPALITY passed, at its meeting of June 18, 2003, resolution No. 2003-06-R211 approving the text of the agreement and authorizing the mayor and the clerk or secretary-treasurer to sign this agreement;

WHEREAS the returning officer of the MUNICIPALITY is responsible for the application of this agreement and the means necessary to carry it out;

THEREFORE, the parties agree to the following:

1. PREAMBLE

The preamble to this agreement is an integral part of the agreement.

2. INTERPRETATION

Unless stated otherwise, expressly or as a result of the context of a provision, the following expressions, terms and words have, for the purposes of this agreement, the meaning and application given in this section.

2.1 "electronic voting system" means an apparatus consisting of the following devices:

— a computer containing in its memory the list of electors, used for the preparation of electronic voting cards;

— a reader of electronic voting cards;

— one or more printers;

— one or more autonomous voting terminals;

— electronic cards used to place the terminals in "election" mode, to vote (electronic voting cards), to place the terminals in "end of election" mode, and to record the results from each autonomous voting terminal;

2.2 "voting terminal" means an independent device containing a display with a graphical representation of a ballot paper, buttons used by electors to vote, and a memory card to record and compile the votes cast by electors;

2.3 "electronic card reader" means a device allowing the information required for an elector to vote to be transferred onto an electronic card;

2.4 "rejected ballot paper" means a ballot paper for which the button corresponding to "I do not wish to vote for the office of mayor" or "I do not wish to vote for the office of councillor" has been pushed by an elector on the voting terminal;

2.5 "operations trail" means a print-out of the operations (audit) of a voting terminal.

3. ELECTION

3.1 For the purposes of the regular election of November 2, 2003 in the municipality, a sufficient number of "PERFAS-MV" model electronic voting systems will be used.

3.2 Before the publication of the notice of election, the municipality must take the necessary steps to provide its electors with adequate information concerning the testing of the new method of voting.

4. SECURITY MECHANISMS

Each electronic voting system must include the following security mechanisms:

(1) a report displaying a total of "zero" must be automatically produced by the electronic ballot box when a voting terminal is turned on on the first day of advance polling and on polling day;

(2) a verification report must be generated on a continuous basis and automatically saved on the memory card of the voting terminal, and must record each procedural operation;

(3) a mechanism which prevents a voting terminal from being placed in "end of election" mode while polling is still under way, because the terminal can only be placed in "end of election" mode by the insertion of an "end of election" card;

(4) a mechanism to ensure that the compilation of results is not affected by any type of interference once the electronic ballot box has been placed in "election" mode;

(5) each voting terminal must be equipped with seals, two to prevent the opening of the box and one covering the screws of the voting terminal;

(6) each voting terminal must be equipped with a back-up power source (battery) able to operate for two to five hours, unless all the terminals are connected to a generator;

(7) if a voting terminal is defective, its internal memory card may be removed and transferred immediately into another voting terminal in order to allow the procedure to continue.

5. PROGRAMMING

Each electronic voting system used is specially programmed by the firm PG Elections inc. for the municipality in order to recognize and tally ballot papers in accordance with this agreement.

6. AMENDMENTS TO THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

6.1 **Election officers**

Section 68 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) is amended by inserting the words "senior deputy returning officer, assistant to the senior deputy returning officer" after the word "assistant,".

6.2 **Senior deputy returning officer, assistant to the senior deputy returning officer, deputy returning officer and poll clerk**

The following is substituted for section 76 of the Act:

"**76.** The returning officer shall appoint the number of senior deputy returning officers and assistants to the senior deputy returning officer that he deems necessary for each polling place.

The returning officer shall appoint a deputy returning officer and a poll clerk for each polling station.".

6.3 **Duties of the senior deputy returning officer, assistant to the senior deputy returning officer and deputy returning officer**

The following is substituted for section 80 of the Act:

"**80.** The senior deputy returning officer shall, in particular,

(1) see to the installation and preparation of the electronic voting systems (voting terminal and electronic card reader);

(2) ensure that the polling is properly conducted and maintain order in the vicinity of the voting terminals in the polling place;

(3) facilitate the exercise of the right to vote and ensure that voting is secret;

(4) ensure that the electronic voting systems function correctly;

(5) print out the results compiled by the voting terminals at the closing of the poll;

(6) complete an overall statement of votes from the partial statements and the results compiled by each voting terminal;

(7) give the returning officer, at the closing of the poll, the results compiled by each voting terminal, the overall statement of votes and the number of electors at each polling station who were given an electronic voting card;

(8) give the returning officer the memory card on which the results of each voting terminal are recorded, the card used to place terminals in "end of election" mode, and the voting terminals in sealed cases.

80.1. The assistant to the deputy returning officer shall, in particular,

(1) assist the senior deputy returning officer in the latter's duties;

(2) receive any elector referred by the senior deputy returning officer;

(3) verify the polling booths in the polling place.

80.2. The deputy returning officer shall, in particular,

(1) see to the arrangement of the polling station;

(2) see that the polling is properly conducted and maintain order at the polling station;

(3) facilitate the exercise of the right to vote and ensure that voting is secret;

(4) receive proof of identity from electors;

(5) give electors an electronic voting card to exercise their right to vote;

(6) check that each electronic voting card returned after the vote has been used. If a card has not been used, a record shall be made in the poll book that an elector has failed to exercise the right to vote;

(7) at the close of the poll, give the senior deputy returning officer a statement indicating the total number of electors given an electronic voting card by the deputy returning officer at the polling station.".

6.4 **Discretion of the Chief Electoral Officer upon observing an error, emergency or exceptional circumstance**

The following is substituted for section 90.5 of the Act:

"**90.5.** Where, during the election period, within the meaning of section 364, it comes to the attention of the Chief Electoral Officer that, subsequent to an error, emergency or exceptional circumstance, a provision referred to in section 90.1 or in the agreement provided for in section 659.2 of the Act respecting elections and referendums in municipalities does not meet the demands of the resultant situation, the Chief Electoral Officer may adapt the provision in order to achieve its object.

The Chief Electoral Officer shall first inform the Minister of Municipal Affairs, Sports and Recreation of the decision he intends to make.

Within 30 days following polling day, the Chief Electoral Officer shall transmit to the President or the Secretary General of the National Assembly a report of the decisions made pursuant to the first paragraph. The President shall table the report in the National Assembly within 30 days of receiving it or, if the National Assembly is not sitting, within 30 days of resumption.".

6.5 **Notice of election**

The following is added after paragraph 7 of section 99:

"(8) the fact that the method of voting is by means of an electronic voting system.".

6.6 **Polling subdivisions**

The following is substituted for section 104 of the Act:

"**104.** The returning officer shall divide the list of electors into polling subdivisions, each comprising not more than 750 electors.

The returning officer shall provide a sufficient number of polling stations at each polling place to receive electors, establish their identity and give them an electronic voting card.

In the polling place, the electors may report to any polling station. They shall be directed to the first available voting terminal to exercise their right to vote.".

6.7 **Verification of electronic voting systems**

The Act is amended by inserting the following subdivision after subdivision 1 of Division IV of Chapter VI of Title I:

"***§1.1*** *Verification of electronic voting systems*

173.1. The returning officer shall, not later than the fifth day preceding the first day of advance polling and the fifth day preceding polling day, test the electronic voting system to ensure that it tallies the number of votes cast accurately and precisely, in the presence of the candidates or their representatives if they so wish.

173.2. During the testing of the electronic voting system, adequate security measures must be taken by the returning officer to guarantee the integrity of the system as a whole and of each component used to record, compile and memorize results. The returning officer must ensure that no electronic communication that could change the programming of the system, the recording of data, the tallying of votes, the memorization of results or the integrity of the system as a whole may be established.

173.3. The returning officer shall conduct the test by performing the following operations:

(1) he shall prepare a pre-determined number of electronic voting cards and transfer onto them the information relating to one of the positions to be filled;

(2) he shall record on the voting terminal a pre-determined number of votes that have been manually tallied. The votes shall include:

(*a*) a pre-determined number of votes in favour of one of the candidates for the office of mayor and councillor;

(*b*) a pre-determined number of votes corresponding to the statement "I do not wish to vote for the office of mayor" or "I do not wish to vote for the office of councillor";

(*c*) a pre-determined number of votes for a candidate for the office of mayor and the same pre-determined number of votes for a candidate for a position as a councillor;

(3) he shall ensure that it is not possible to record more than one vote for the same position;

(4) he shall ensure that the button used to record a vote can be pushed only after the button used to vote for the mayor or corresponding to the statement "I do not wish to vote for the office of mayor", and the button used to vote for a councillor or corresponding to the statement "I do not wish to vote for the office of councillor", have been pushed;

(5) he shall ensure that the information relating to the positions to be filled contained on the electronic voting cards is consistent with the information transferred to the cards by the returning officer;

(6) he shall place the system in "end of election" mode and ensure that the results compiled by the voting terminal are consistent with the results compiled manually;

(7) once the test has been successfully completed, he shall reset the voting terminal to zero and replace it in a sealed case; the candidates or their representatives may affix their signature if they so wish;

(8) here an error in the compilation of the results compiled by the terminals is detected, the returning officer shall determine with certitude the cause of error, proceed with a further test, and repeat the operation until a perfect compilation of results is obtained; any error or discrepancy shall be noted in the test report;

(9) he may not change the programming established by the firm PG Elections inc.".

6.8 **Advance polling**

The following is substituted for sections 182, 183 and 185 of the Act;

"**182.** At the close of the advance polling station, the poll clerk shall enter the following particulars in the poll book;

(1) the number of electors who were given an electronic voting card;

(2) the total number of votes recorded on each terminal, as transmitted by the senior deputy returning officer;

(3) the names of the persons who performed duties as election officers or as representatives.

The deputy returning officer shall place in separate envelopes the forms, the verification reports printed out at each terminal, the poll book and the list of electors, and shall then seal the envelopes. The deputy returning officer, the poll clerk and the representatives who wish to do so shall affix their initials to the seals of the envelopes. The envelopes, except the envelope containing the list of electors, shall be given to the senior deputy returning officer for deposit in a large envelope. The large envelope shall be sealed. The persons present may affix their initials to the seal.

182.1. At the close of the advance polling station, the senior deputy returning officer shall;

(1) place the voting terminals in "end of election" mode;

(2) transfer the data contained in the memory of the electronic ballot box onto a memory card;

(3) print the operations trail (audit);

(4) place the memory card (memory chip) and the operations trail in separate envelopes, and seal the envelopes;

(5) forward the envelopes to the returning officer, who shall keep them safely in separated locations;

(6) set each voting terminal to zero, seal it and place it in its plastic case;

(7) affix his initials to all the seals and give the candidates or representatives present an opportunity to affix their initials.

182.2. the senior deputy returning officer shall place the card used to place the terminals in "election" mode and "end of election" mode in the large envelope.

The senior deputy returning officer shall seal the large envelope and each terminal. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seal of the large envelope.

The senior deputy returning officer shall then give the large envelope, the envelopes containing the list of electors, the memory card and the operations trail, as well as the voting terminals, to the returning officer or the person designated by the returning officer.

The returning officer shall keep in safety, in separate locations, the envelopes containing the memory card and the operations trail.

182.3. The returning officer shall, using the various lists of electors used in the advance polling, draw up an integrated list of all the electors who voted in the advance poll. The returning officer shall make as many copies of the list as there are to be polling stations on polling day.

183. Immediately before the time fixed for the opening of the polling station on the second day, where applicable, the senior deputy returning officer, before the persons present, shall open the large envelope and give each deputy returning officer the poll books and the forms. Each deputy returning officer shall open the envelopes and take custody of their contents.

The senior deputy returning officer shall take possession of the verification reports indicating the total number of votes recorded on each terminal, the card used to place the terminals in "election" mode and the card used to place the terminals in "end of election" mode.

The senior deputy returning officer shall verify for each terminal, using the memory card, that the number of votes recorded matches the number entered the previous day in the poll book by the poll clerk for that polling station.

The returning officer, or the person designated by the returning officer, shall return the list of electors to each deputy returning officer.

At the close of the advance poll on the second day, the senior deputy returning officer, the returning officer and the poll clerk shall perform the same actions as at the close of the advance poll on the first day.".

"**185.** From 7:00 p.m. on polling day, the returning officer or the person designated by the returning officer shall, using the memory card or cards on which the results are recorded, print out the results compiled by each voting terminal used in the advance poll in the presence of the deputy returning officers, the poll clerks and the representatives who wish to be present.

The results shall be printed out at the location determined by the returning officer. The print-out shall be performed in accordance with the rules applicable to the printing-out of the results from polling day, adapted as required.".

6.9 **Revocation**

Sections 186 and 187 of the Act are revoked.

6.10 **Polling place**

The following is substituted for the first paragraph of section 188 of the Act:

"**188.** The polling place must be in premises that are spacious and easily accessible to the public.".

6.11 **Booths**

The following is substituted for section 191 of the Act:

"**191.** Where electronic voting systems are used in an election, each polling station shall have the number of polling booths determined by the returning officer.".

6.12 **Ballot papers and electronic voting cards**

The following is substituted for section 192 of the Act:

"**192.** The returning officer shall ensure that a sufficient number of electronic voting cards are available to facilitate the exercise of the electors' right to vote.".

The following is substituted for sections 193 to 195 of the Act:

"**193.** The graphical representation of a ballot paper that appears on the voting terminal shall be consistent with the model set out in Schedule 1 to the agreement provided for in section 659.2 of the Act respecting elections and referendums in municipalities.".

6.13 **Identification of the candidates**

The following is substituted for section 196 of the Act:

"**196.** The graphical representation of a ballot paper that appears on the voting terminal must allow each candidate to be identified.

Depending on the number of positions to be filled, the representation shall have one or more columns on one or more pages, showing:

(1) the name of each candidate, the given name preceding the surname;

(2) under each name, the name of the authorized party or recognized ticket to which the candidate belongs, where such is the case;

(3) a rectangle for the elector's mark opposite the particulars pertaining to each candidate.

All rectangles, as the space between consecutive rectangles, must be of the same size.

Where several independent candidates for the same office have the same name, the graphical representation of the ballot paper used in the polling for that office shall indicate the address of each candidate under the candidate's name and, where such is the case, above the indication of the candidate's political affiliation.

The particulars must appear in alphabetical order of the candidates' surnames and, as the case may be, of the candidates' given names. Where two or more candidates for the same office have the same name, the order in which the particulars relating to each of them appear shall be determined by a drawing of lots carried out by the returning officer.

The particulars pertaining to the candidates must correspond to those contained in the nomination papers, unless, in the meantime, the authorization of the party or the recognition of the ticket has been withdrawn, or the name of the party or ticket appearing on the nomination papers is inaccurate.".

6.14 **Reverse of ballot paper**

Section 197 is revoked.

6.15 **Withdrawal of a candidate**

The following is substituted for section 198 of the Act;

"**198.** Where an electronic voting system is used in an election, the returning officer shall ensure that the memory card is adjusted so that it does not take into account the candidates who have withdrawn.

Any vote in favour of those candidates before or after their withdrawal is null.".

6.16 **Withdrawal of authorization or recognition**

The following is substituted for section 199 of the Act:

"**199.** Where electronic voting systems are used in an election, the returning officer shall ensure that they are adjusted so that they do not take into account the party or ticket from which authorization or recognition has been withdrawn.".

6.17 **Number of voting terminals**

The following is substituted for sections 200 and 201 of the Act:

"**200.** The returning officer shall ensure that a sufficient number of electronic voting systems are available for the election.

201. The upper surface of the voting terminal must be in conformity with the model described in Schedule 2 to this Agreement.

The voting terminal must be designed so that the button used to vote for a candidate is placed opposite the particulars relating to that candidate.

The instructions to the electors on how to vote must be clearly indicated on the upper surface of the voting terminal.".

6.18 **Provision of polling materials**

The following is substituted for section 204 of the Act:

"**204.** Not later than one hour before the time fixed for the opening of the polling station, the returning officer shall give or make available to the deputy returning officer, in a sealed envelope, after affixing his initials to the seals,

(1) the copy of the list of electors for the polling subdivision used for the advance poll and comprising the electors who are entitled to vote at that polling station;

(2) a poll book;

(3) electronic voting cards;

(4) the forms and other documents necessary for the poll and the closing of the polling station.

The returning officer shall give or make available to the deputy returning officer, as well as to the senior deputy returning officer, any other materials required for the poll, the closing of the polling office, and the tallying and recording of votes.".

6.19 **Examination of polling materials and documents**

The following is substituted for section 207 of the Act:

"**207.** In the hour preceding the opening of the polling stations, the senior deputy returning officer, before the persons present, shall initialize the electronic voting system for the polling place. The senior deputy returning officer shall ensure that the system computer displays a total of zero electors having voted, and that each voting terminal displays a total of zero recorded votes, by verifying the printed reports from those devices.

The senior deputy returning officer shall ensure that as many small envelopes are available for the memory cards used to record results as there are voting terminals under his responsibility.

The senior deputy returning officer must inform the returning officer of any discrepancy observed upon activating a voting terminal or during the poll.

The senior deputy returning officer shall keep the reports and show them to any person present who wishes to examine them.

The senior deputy returning officer must, in addition, before the persons present, ensure that two seals are affixed to each terminal.

In the hour preceding the opening of the polling stations, each deputy returning officer and poll clerk shall examine the polling documents and materials provided by the returning officer.".

POLLING PROCEDURE

6.20 **Presence at the polling station**

The following is substituted for the third paragraph of section 214 of the Act:

"In addition, only the deputy returning officer, the poll clerk and the representatives assigned to the polling station, together with the returning officer, the election clerk, the assistant to the returning officer, the senior deputy returning officer and the assistant to the senior deputy returning officer may be present at the station. The officer in charge of information and order may be present, at the request of the deputy returning officer for as long as may be required. The poll runner may be present for the time required to perform his duties. Any other person assisting an elector under section 226 may be present for the time required to enable the elector to exercise his right to vote.".

6.21 **Electronic voting cards**

The following is substituted for section 221 of the Act:

"**221.** The deputy returning officer shall give each elector admitted to vote an electronic voting card to which the information required to exercise the right to vote has been transferred.

In no case may the information transferred to the card allow a link to be established between the casting of a vote and the identity of an elector.".

6.22 **Voting**

The following is substituted for section 222 of the Act:

"**222.** The elector shall enter the polling booth and exercise the right to vote by:

(1) inserting the electronic voting card in the opening provided for that purpose and clearly identified on the upper surface of the voting terminal;

(2) pressing the button placed opposite the particulars relating to the candidate in whose favour the elector wishes to vote as mayor and councillor or councillors, causing a mark to appear in the rectangle;

(3) recording the vote by pressing the red button placed on the upper surface of the voting terminal, causing the red lights placed above the button to go out.".

6.23 **Following the vote**

The following is substituted for section 223 of the Act:

"**223.** After removing the electronic voting card from the voting terminal, the elector shall leave the booth and give the electronic voting card to the polling officer designated for that purpose by the returning officer.

If an elector indicates one or more votes but leaves the booth without recording them, the senior deputy returning officer or the latter's assistant shall record the votes.

If an elector fails to indicate and record one or more votes and leaves the polling place, the senior deputy returning officer or the latter's assistant shall press the button corresponding to the statement "I do not wish to vote for the office of mayor" or "I do not wish to vote for the office of councillor" or both, as the case may be, and shall then record the voter's vote.

The electronic voting card shall then be removed from the voting terminal and given to the deputy returning officer. The occurrence shall be recorded in the poll book.".

6.24 **Cancelled and spoiled ballot papers**

Sections 224 and 225 of the Act are revoked.

6.25 **Assistance for electors**

The following is substituted for section 226 of the Act:

"**226.** An elector who declares under oath, before the senior deputy returning officer or the assistant to the senior deputy returning officer, that he is unable to use the electronic ballot box or to vote, may be assisted either:

(1) by a person who is the elector's spouse or a relative within the meaning of section 131;

(2) by the senior deputy returning officer, in the presence of the assistant to the senior deputy returning officer.

A deaf or mute elector may be assisted, for the purposes of communicating with the election officers and representatives, by a person capable of interpreting the sign language of the deaf.

The senior deputy returning officer shall advise the deputy returning officer concerned that an elector has availed himself of this section, and the occurrence shall be entered in the poll book.".

6.26 **Transfer of information to electronic voting cards**

The following is substituted for section 228 of the Act:

"**228.** The electronic voting system shall ensure that the information required for an elector to exercise the right to vote is transferred once only to the electronic voting card.".

6.27 **Compilation of results and tallying of votes**

The following is substituted for section 229 of the Act:

"**229.** After the closing of the poll, the senior deputy returning officer shall compile the results by:

(1) placing the election terminals of the polling place in "end of election" mode;

(2) recording the results of each voting terminal;

(3) printing out the results compiled by each voting terminal.

The reports on the compiled results shall indicate the total number of voters who have voted, the number of valid votes, the number of rejected ballot papers and the number of votes for each candidate.

The senior deputy returning officer shall gather from each poll clerk the number of electors admitted to vote.

The senior deputy returning officer shall allow each person present to consult the results.".

6.28 **Entries in poll book**

The following is substituted for section 230 of the Act:

"**230.** After the closing of the poll, the poll clerk of each polling station shall enter in the poll book:

(1) the number of electors who have voted;

(2) the names of the persons who have performed duties as election officers or as representatives assigned to that polling station.

230.1. The deputy returning officer shall place the poll book and the list of electors in separate envelopes.

The deputy returning officer shall seal the envelopes, and the representatives assigned to the polling station who wish to do so shall affix their initials to the seals.

The deputy returning officer shall then give the envelopes to the senior deputy returning officer.".

6.29 **Compiling sheet**

Section 231 of the Act is revoked.

6.30 **Counting of the votes**

Section 232 of the Act is revoked.

6.31 **Rejected ballot papers**

The following is substituted for section 233 of the Act:

"**233.** The electronic voting system shall be programmed in such a way that every ballot paper for which the button corresponding to "I do not wish to vote for the office of mayor" or "I do not wish to vote for the office of councillor" is pushed by the elector on the voting terminal is rejected.

For the purposes of the poll, the memory card shall be programmed in such a way that the electronic voting system processes and conserves all the votes cast, in other words both the valid ballot papers and the rejected ballot papers.".

Sections 234 to 237 of the Act are revoked.

6.32 **Partial statement of votes and copy for representatives**

The following is substituted for sections 238 and 240 of the Act:

"**238.** The deputy returning officer shall draw up the partial statement of votes, setting out the total number of electors admitted to vote.

A separate statement shall be drawn up for each polling station.

The deputy returning officer shall draw up sufficient copies of the partial statement of votes for himself, the senior deputy returning officer, the returning officer and every representative assigned to the polling station.

238.1 Using the partial statements of votes and the results compiled by the electronic voting system, the senior deputy returning officer shall draw up an overall statement of votes.".

"**240.** The senior deputy returning officer shall immediately give a copy of the overall statement of votes to the representatives.

The senior deputy returning officer shall retain a copy of the statement and a second copy for the returning officer for the purposes of section 244.".

6.33 **Separate envelopes**

The following is substituted for section 241 of the Act:

"**241.** After printing out the results compiled by each voting terminal in the polling place, the senior deputy returning officer shall:

(1) place the memory card used to record the results from each voting terminal in a small envelope bearing the serial number of the terminal concerned, seal the envelope and affix his initials, along with those of the representatives who wish to do so;

(2) place all the reports on the results compiled in an envelope, together with the partial statements and the overall statement of votes.".

6.34 **Seals**

The following is substituted for section 242 of the Act:

"**242.** The senior deputy returning officer shall place in a large envelope:

(1) the small envelopes prepared pursuant to paragraph 1 of section 241;

(2) the envelopes provided for in section 230.1;

(3) the card used in the polling place to place the terminals in "election" mode and "end of election" mode;

(4) the electronic voting cards.

The senior deputy returning officer shall seal the large envelope. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seal of the large envelope.".

6.35 **Placing in ballot box**

Section 243 of the Act is revoked.

6.36 **Delivery to returning officer**

The following is substituted for section 244 of the Act:

"**244.** The senior deputy returning officer shall deliver to the returning officer or the person designated by the returning officer

(1) the envelope containing the reports of the results compiled by each voting terminal, the partial statements and the overall statement of votes;

(2) the large envelope provided for in section 242.".

6.37 **Addition of votes**

The following is substituted for section 247 of the Act:

"**247.** The returning officer shall proceed with the addition of the votes using the overall statement of votes drawn up by each senior deputy returning officer.".

6.38 **Adjournment of the addition of votes**

The following is substituted for section 248 of the Act:

"**248.** The returning officer shall, if unable to obtain an overall statement of votes that should have been provided, adjourn the addition of votes until the statement is obtained.

Where it is not possible to obtain an overall statement of votes, or the printed report on the results and a partial statement of votes, the returning officer shall, in the presence of the senior deputy returning officer and the candidates in question or of their representatives if they so wish, print out a new report using the appropriate memory card for recording results and the copy of the partial statements of votes taken from the large envelope, opened in the presence of the aforementioned persons.".

6.39 **Placing in envelope**

The following is substituted for section 249 of the Act:

"**249.** After printing out the results, the returning officer shall place the memory card used to record results in an envelope, seal the envelope, and affix his initials and allow the candidates or their representatives to affix their initials if they so wish. He shall place the copy of the partial statements of votes in the large envelope, seal it, and allow the candidates or representatives present to affix their initials.".

6.40 **New counting of the votes**

Section 250 of the Act is revoked.

6.41 **Notice to the Minister**

The following is substituted for section 251 of the Act:

"**251.** Where it is impossible to obtain the electronic cards used to record the results, where applicable, the returning officer shall advise the Minister of Municipal Affairs, Sports and Recreation in accordance with Division III of Chapter XI.".

6.42 **Access to voting papers**

Section 261 of the Act is revoked.

6.43 **Application for a recount or re-addition**

The following is substituted for the first paragraph of section 262 of the Act:

"**262.** Any person who has reasonable grounds to believe that a voting terminal has produced an inaccurate statement of the number of votes cast, or that a deputy returning officer has drawn up an inaccurate partial statement of votes, or that a senior deputy returning officer has drawn up an inaccurate overall statement of votes, may apply for a new compilation of the results. The applications may be limited to one or more voting terminals, but the judge is not bound by that limitation.".

6.44 **Notice to candidates**

The following is substituted for section 267 of the Act:

"**267.** The judge shall give one clear day's advance notice in writing to the candidates concerned of the date, time and place at which he will proceed with the new compilation of the results or re-addition of the votes.

The judge shall summon the returning officer and order him to bring the electronic cards on which the results of the votes are recorded, the reports of the compiled results, and the partial and overall statements of vote. Where the new compilation is limited to one or certain polling subdivisions, the judge shall order only the electronic cards on which the results of the votes are recorded, the reports of the compiled results, and the partial and overall statements of votes he will need.".

6.45 **Procedure for a new compilation of results or re-addition of votes**

The following is substituted for section 268 of the Act:

"**268.** On the appointed day, the judge, in the presence of the returning officer shall, in the case of a new compilation of results, print out the results compiled by the voting terminal display or displays under inquiry.

In the case of a re-addition of votes, the judge shall examine the reports of the compiled results and the partial and overall statements of votes.

The candidates concerned or their mandataries and the returning officer may, at that time, examine all the documents and items examined by the judge.".

6.46 **Repeal**

Section 269 is revoked.

6.47 **Missing electronic card for recording results and partial statements of votes**

The following is substituted for the first paragraph of section 270 of the Act:

"**270.** If an electronic card on which results are recorded or a required document is missing, the judge shall use appropriate means to ascertain the results of the vote.".

6.48 **Custody of items and documents, and verification**

The following is substituted for sections 271, 272 and 273 of the Act:

"**271.** During a new compilation or a re-addition, the judge shall have custody of the voting system and of the items and documents entrusted to him.

272. As soon as the new compilation is completed, the judge shall confirm or rectify each report of compiled results and each report on a partial statement of votes and carry out a re-addition of the votes.

273. After completing the re-addition of the votes, the judge shall certify the results of the poll.

The judge shall give the returning officer the electronic cards used to record the results and all the other documents used to complete the new compilation or the re-addition.".

7. DURATION AND APPLICATION OF AGREEMENT

The returning officer of the municipality is responsible for the application of this agreement and, consequently, for the proper conduct of the trial application of the new method of voting during general elections and by-elections held before December 31, 2005.

8. AMENDMENT

The parties agree that this agreement may be amended if need be to ensure the proper conduct of the regular election to be held on November 2, 2003 and of any subsequent election provided for in the agreement. Mention of that fact shall be made in the assessment report.

9. ASSESSMENT REPORT

Within 120 days following the regular election held on November 2, 2003, the returning officer of the municipality shall forward, in accordance with section 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2), an assessment report to the Chief Electoral Officer and the Minister addressing, in particular, the following issues:

— the preparations for the election (choice of the new method of voting, communications plan, etc.);

— the conduct of the advance poll and the poll;

— the cost of using the electronic voting system:

– the cost of adapting election procedures;

– non-recurrent costs likely to be amortized;

– a comparison between the actual polling costs and the estimated polling costs using the new methods of voting and the projected cost of holding the regular election on November 2, 2003 using traditional methods;

— the number and duration of incidents during which voting was stopped, if any;

— the advantages and disadvantages of using the new method of voting;

— the results obtained during the addition of the votes and the correspondence between the number of votes cast and the number of electors admitted to vote.

10. APPLICATION OF THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

The Act respecting elections and referendums in municipalities shall apply to the regular election held on November 2, 2003 in the municipality, subject to the provisions of the Act that this agreement amends or replaces.

11. EFFECT OF AGREEMENT

This agreement has effect from the time when the returning officer performs the first act for the purposes of an election to which this agreement applies.

AGREEMENT SIGNED IN THREE COPIES:

In Saint-André-d'Argenteuil, this 25th day of June 2003

MUNICIPALITY OF SAINT-ANDRÉ-D'ARGENTEUIL

By: _____
DANIEL BEAULIEU, *Mayor*

_____
LINNE ROQUEBRUNE, *Clerk or secretary-treasurer*

In Québec, on this 2nd day of July 2003

THE CHIEF ELECTORAL OFFICER

_____
MARCEL BLANCHET

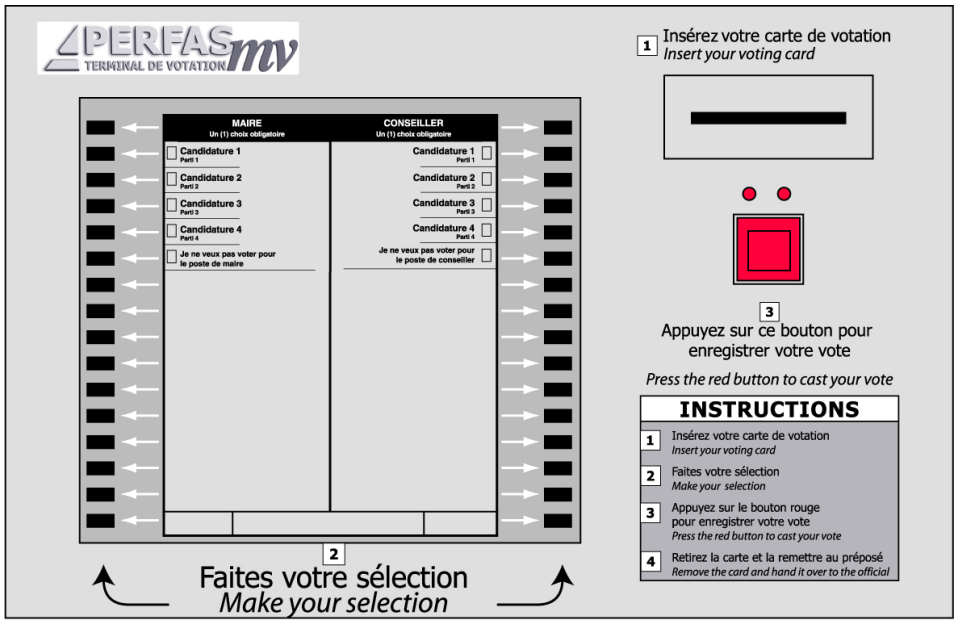
In Québec, on this 8th day of July 2003

THE MINISTER OF MUNICIPAL AFFAIRS, SPORTS AND RECREATION

By: _____
DENYS JEAN, *Deputy Minister*

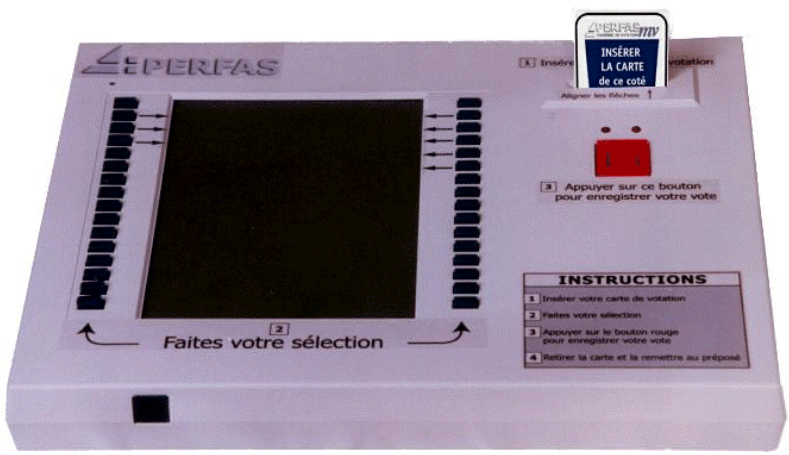
SCHEDULE I

BALLOT PAPER



SCHEDULE II

VOTING TERMINAL



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Gouvernement du Québec

Agreement

An Act respecting elections and referendums in municipalities
(R.S.Q., c. E-2.2)

AGREEMENT CONCERNING NEW METHODS OF VOTING FOR AN ELECTION USING "PERFAS-TAB" BALLOT BOXES

AGREEMENT ENTERED INTO

BETWEEN

The MUNICIPALITY OF SAINTE-THÉRÈSE, a legal person established in the public interest, having its head office at 6, rue de l'Église, Sainte-Thérèse, Province of Québec, represented by the mayor, Élie Fallu, and the city clerk, Jean-Luc Berthiaume, under a resolution bearing number 2003-318, hereinafter called

THE MUNICIPALITY

AND

Mtre Marcel Blanchet, in his capacity as CHIEF ELECTORAL OFFICER OF QUÉBEC, duly appointed to that office under the Election Act (R.S.Q., c. E-3.3), acting in that capacity and having his main office at 3460, rue de La Pérade, Sainte-Foy, Province of Québec, hereinafter called

THE CHIEF ELECTORAL OFFICER

AND

the Honourable Jean-Marc Fournier, in his capacity as MINISTER OF MUNICIPAL AFFAIRS, SPORT AND RECREATION having his main office at 10, rue Pierre-Olivier-Chauveau, Québec, Province of Québec, hereinafter called

THE MINISTER

WHEREAS the council of the MUNICIPALITY, by its resolution No. 2003-182, passed at its meeting of April the seventh 2003, expressed the desire to avail itself of the provisions of the Act respecting elections and referendums in municipalities to enter into an agreement with the CHIEF ELECTORAL OFFICER and the MINISTER in order to allow the use of electronic ballot boxes for the general election of November the second 2003 in the MUNICIPALITY;

WHEREAS sections 659.2 and 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) provide the following:

"**659.2.** A municipality may, in accordance with an agreement made with the Minister of Municipal Affairs and Greater Montréal and the Chief Electoral Officer, test new methods of voting during a poll. The agreement may provide that it also applies to polling held after the poll for which the agreement was entered into; in such case, the agreement shall provide for its period of application.

The agreement must describe the new methods of voting and mention the provisions of this Act it amends or replaces.

The agreement has the effect of law.

659.3. After polling during which a test mentioned in section 659.2 is carried out, the municipality shall send a report assessing the test to the Minister of Municipal Affairs and Greater Montréal and the Chief Electoral Officer.";

WHEREAS the MUNICIPALITY expressed the desire to avail itself of those provisions for the general election held on November the second 2003 and could, with the necessary adaptations, avail itself of those provisions for elections held after the date of the agreement, the necessary adaptations to be included in an addendum to this agreement;

WHEREAS it is expedient to provide the procedure that applies to the territory of the MUNICIPALITY for that general election;

WHEREAS an agreement must be entered into between the MUNICIPALITY, the CHIEF ELECTORAL OFFICER and the MINISTER;

WHEREAS the MUNICIPALITY is solely responsible for the technological choice elected;

WHEREAS the council of the MUNICIPALITY passed, at its meeting of June the second 2003, resolution No. 2003-318 approving the text of the agreement and authorizing the mayor and the clerk or secretary-treasurer to sign this agreement;

WHEREAS the returning officer of the MUNICIPALITY is responsible for the application of this agreement and the means necessary to carry it out;

THEREFORE, the parties agree to the following:

1. PREAMBLE

The preamble to this agreement is an integral part of the agreement.

2. INTERPRETATION

Unless stated otherwise, expressly or as a result of the context of a provision, the following expressions, terms and words have, for the purposes of this agreement, the meaning and application given in this section.

2.1 "Electronic ballot box" means an apparatus containing a vote tabulator, a memory card, a printer, a recipient for ballot papers and a modem, where necessary.

2.2 "Vote tabulator" means a device that uses an optical scanner to detect a mark made by an elector in the space provided for that purpose on a ballot paper.

2.3 "Memory card" means a memory device that computes and records the marks made by an elector for each of the candidates whose names are printed on the ballot paper and the number of rejected ballot papers according to the subdivisions of the vote tabulator program.

2.4 "Recipient for ballot paper cards" means a box into which the ballot paper cards fall.

2.5 "Transfer box" means the box in which the ballot paper cards are placed once the results of the poll have been compiled.

2.6 "Ballot paper card" means the card on which the ballot papers are printed.

2.7 "Refused ballot paper card" means a ballot paper card the insertion of which in the tabulator is refused.

2.8 "Confidentiality sleeve" means a sleeve designed to receive the ballot paper card.

3. ELECTION

3.1 For the purposes of the general election of November the second 2003 in the municipality, a sufficient number of PerFas-TAB electronic ballot boxes will be used.

3.2 Before the publication of the notice of election, the municipality must take the necessary steps to provide its electors with adequate information concerning the testing of the new method of voting.

4. SECURITY MECHANISMS

The electronic ballot boxes used must include the following security mechanisms:

(1) a report displaying a total of "zero" must be produced by an electronic ballot box upon being turned on by the senior deputy returning officer on the first day of advance polling and on polling day;

(2) a verification report must be generated on a continuous basis and automatically saved on the memory card, and must record each procedural operation;

(3) the electronic ballot box must not be placed in "end of election" mode while the poll is still under way;

(4) the compilation of results must not be affected by any type of interference once the electronic ballot box has been placed in "election" mode;

(5) each electronic ballot box must be equipped with a back-up power source (battery) able to operate for two to five hours, unless all the electronic ballot boxes are connected to a generator;

(6) if a ballot box is defective, the memory card may be removed and transferred immediately into another electronic ballot box in order to allow the procedure to continue.

5. PROGRAMMING

Each memory card used is specially programmed by the firm PG Elections inc. to recognize and tally ballot papers in accordance with this agreement.

6. AMENDMENTS TO THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

6.1 **Election officers**

Section 68 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) is amended by inserting the words "senior deputy returning officer, assistant to the senior deputy returning officer" after the word "assistant".

6.2 **Senior deputy returning officer, assistant to the senior deputy returning officer**

The following is substituted for section 76 of the Act:

"**76.** The returning officer shall appoint the number of senior deputy returning officers and assistants to the senior deputy returning officer that he deems necessary for each polling place.

The returning officer shall appoint a deputy returning officer and a poll clerk for each polling station.".

6.3 **Duties of the senior deputy returning officer, assistant to the senior deputy returning officer and deputy returning officer**

The following is substituted for section 80 of the Act:

"**80.** The senior deputy returning officer shall, in particular,

(1) see to the installation and preparation of the electronic ballot box;

(2) ensure that the polling is properly conducted and maintain order in the vicinity of the electronic ballot box;

(3) facilitate the exercise of the right to vote and ensure that voting is secret;

(4) ensure that the electronic ballot box functions correctly;

(5) print out the results compiled by the electronic ballot box at the closing of the poll;

(6) complete an overall statement of votes from the partial statements and the results compiled by the electronic ballot box;

(7) give the returning officer, at the closing of the poll, the results compiled by the electronic ballot box and the partial statements of votes;

(8) put the ballot paper cards from the electronic ballot box recipient into the transfer boxes, seal them and give them to the returning officer;

(9) when a ballot paper card has been refused by the tabulator, ask the elector to return to the polling booth, mark all the spaces provided for the affixing of the elector's mark, and go to the polling station in order to obtain another ballot paper card;

(10) advise the returning officer immediately of any defect in the memory card or the electronic ballot box.

80.1. The assistant to the senior deputy returning officer shall, in particular,

(1) assist the senior deputy returning officer in the latter's duties;

(2) receive any elector referred by the senior deputy returning officer;

(3) verify the polling booths in the polling place;

(4) get the pencils and confidentiality sleeves back from the senior deputy returning officer and redistribute them to each deputy returning officer.

80.2. The deputy returning officer shall, in particular,

(1) see to the arrangement of the polling station;

(2) ensure that the polling is properly conducted and maintain order;

(3) facilitate the exercise of the right to vote and ensure that voting is secret;

(4) receive proof of identity from electors;

(5) give electors a ballot paper card, a confidentiality sleeve and a pencil to exercise their right to vote;

(6) receive from electors any ballot paper cards that are refused by the tabulator and give the electors another ballot paper, and record the occurrence in the poll book.".

6.4 **Discretion of the chief electoral officer upon observing an error, emergency or exceptional circumstance**

The following is substituted for section 90.5 of the Act:

"**90.5.** Where, during the election period, within the meaning of section 364, it comes to the attention of the chief electoral officer that, subsequent to an error, emergency or exceptional circumstance, a provision referred to in section 90.1 or in the agreement provided for in section 659.2 of the Act respecting elections and referendums in municipalities does not meet the demands of the resultant situation, the chief electoral officer may adapt the provision in order to achieve its object.

The chief electoral officer shall first inform the Minister of Municipal Affairs and Greater Montréal of the decision he intends to make.

Within 30 days following polling day, the chief electoral officer shall transmit to the President or the Secretary General of the National Assembly a report of the decisions made pursuant to the first paragraph. The President shall table the report in the National Assembly within 30 days of receiving it or, if the National Assembly is not sitting, within 30 days of resumption.".

6.5 **Notice of election**

The following is added after paragraph 7 of section 99 of the Act:

"(8) the fact that the method of voting is voting by means of electronic ballot boxes.".

6.6 **Polling subdivisions**

The following is substituted for section 104 of the Act:

"**104.** The returning officer shall divide the list of electors into polling subdivisions.

The polling subdivisions shall have a number of electors determined by the returning officer. That number shall not be greater than 750 electors.".

6.7 **Verification of electronic ballot boxes**

The Act is amended by inserting the following subdivision after subdivision 1 of Division IV of Chapter VI of Title I:

"***§1.1*** *Verification of electronic ballot boxes*

173.1. The returning officer shall, at least five days before the first day fixed for the advance poll and at least three days before the day fixed for the polling, test the electronic ballot box to ensure that the vote tabulator accurately detects the mark made on a ballot paper and that it tallies the number of votes cast accurately and precisely, in the presence of a representative of the firm Cognicase inc. and the representatives of the candidates.

173.2. During the testing of the electronic ballot boxes, adequate security measures must be taken by the returning officer to guarantee the integrity of the system as a whole and of each component used to record, compile and memorize results. The returning officer must ensure that no electronic communication that could change the programming of the electronic ballot box, the recording of data, the tallying of votes, the memorization of results or the integrity of the system as a whole may be established.

173.3. The returning officer shall conduct the test by performing the following operations:

(1) he shall mark the memory card with the returning officer's initials and insert it into the electronic ballot box;

(2) he shall insert into the electronic ballot box a predetermined number of ballot paper cards, previously marked and tallied manually. The ballot paper cards shall include

(a) a sufficient and pre-determined number of ballot papers correctly marked to indicate a vote for each of the candidates;

(b) a sufficient and pre-determined number of ballot papers that are not correctly marked;

(c) a sufficient and pre-determined number of ballot papers marked to indicate a vote for more than one candidate for the same office;

(d) a sufficient and pre-determined number of blank ballot papers;

(3) he shall place the electronic ballot box in "end of election mode" and ensure that the results compiled by the electronic ballot box are consistent with the manually-compiled results;

(4) once the test has been successfully completed, he shall reset the memory card to zero and seal it; the returning officer and the representatives who wish to do so shall initial the seal;

(5) he shall place the tabulator in the travel case and place a seal on it; the returning officer and the representatives who wish to do so shall note the number entered on the seal;

(6) where an error is detected, the returning officer shall determine with certitude the cause of the error, make the necessary corrections and proceed with a further test, and shall repeat the operation until the optical scanner of the vote tabulator accurately detects the mark made on a ballot paper and until a perfect compilation of results is obtained. Any error or discrepancy observed shall be noted in the test report;

(7) he may not change the programming for the scanning of the mark made by an elector in the space provided for that purpose without supervision from the firm PG Elections inc.".

6.8 **Mobile polling station**

The said Act is amended by inserting the following sections after section 175:

"**175.1.** The electors shall indicate their vote on the same type of ballot paper as that used in an advance polling station. After marking the ballot paper, each elector shall insert it in the confidentiality sleeve and place it in the ballot box provided for that purpose. At the close of the mobile poll, the deputy returning officer and the mobile poll clerk shall seal the ballot box and affix their initials to it.

175.2. The deputy returning officer shall, before the opening of the advance polling station, give the senior deputy returning officer the ballot box containing the ballot papers from the mobile polling station.

The senior deputy returning officer shall, in the presence of the assistant to the senior deputy returning officer, remove from the ballot box the confidentiality sleeves containing the ballot papers and insert the ballot papers, one by one, in the electronic ballot box.".

6.9 **Advance polling**

The following is substituted for sections 182, 183 and 185 of the Act:

"**182.** After the close of the advance polling station, the poll clerk shall enter the following particulars in the poll book:

(1) the number of ballot paper cards received from the returning officer;

(2) the number of electors who were given a ballot paper card;

(3) the number of spoiled, refused or cancelled ballot paper cards and the number of unused ballot paper cards;

(4) the names of the persons who have performed duties as election officers or as representatives.

The deputy returning officer shall place in separate envelopes the spoiled, refused or cancelled ballot paper cards, the unused ballot paper cards, the forms, the poll book and the list of electors. The deputy returning officer shall then seal the envelopes. The deputy returning officer, the poll clerk and the representatives who wish to do so shall affix their initials to the seals of the envelopes. The envelopes, except the envelope containing the list of electors, shall be given to the senior deputy returning officer for deposit in one of the transfer boxes.

182.1. The senior deputy returning officer, in the presence of the candidates or of their representatives who wish to be present, shall open the recipient of the electronic ballot box and place the ballot paper cards from the recipient in one or more transfer boxes, and seal the transfer boxes. The senior deputy returning officer shall then seal the opening of the electronic ballot box. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seals. Next, the senior deputy returning officer shall place the electronic ballot box in its travel case and seal it. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seals.

The senior deputy returning officer shall then give the transfer boxes and the envelopes containing the list of electors to the returning officer or to the person designated by the returning officer.

The returning officer shall have custody of the transfer box or boxes until the results of the advance poll have been compiled and then for the time prescribed for the conservation of electoral documents.

183. Immediately before the time fixed for the opening of the polling station on the second day, where applicable, the senior deputy returning officer, before the persons present, shall open the transfer boxes and give each deputy returning officer the poll books, the envelopes containing unused ballot paper cards and the forms. Each deputy returning officer shall open the envelopes and take possession of their contents. The spoiled, refused or cancelled ballot paper cards from the first day shall remain in the transfer boxes, which the senior deputy returning officer shall seal.

The senior deputy returning officer, before the persons present, shall remove the seal from the travel case of the tabulator.

The returning officer, or the person designated by the returning officer, shall give each deputy returning officer the list of electors of grouped polling stations, where applicable.

At the close of the second day of advance polling, where applicable, the senior deputy returning officer, the deputy returning officer and the poll clerk shall perform the same actions as at the close of the first day of advance polling. In addition, the senior deputy returning officer shall withdraw the memory card from the electronic ballot box, place it in an envelope, seal the envelope, place the envelope in a transfer box and seal the box.

The spoiled, refused or cancelled ballot paper cards from the second day shall be placed in separate sealed envelope by the deputy returning officer. They shall also be placed in a sealed transfer box.

The deputy returning officer, the poll clerk and the representatives who wish to do so shall affix their initials to the seal.".

"**185.** From 7:00 p.m. on polling day, the returning officer or the person designated by the returning officer shall print out the results compiled by the electronic ballot box at an advance polling station, in the presence of the deputy returning officers, the poll clerks and the representatives who wish to be present.

The results shall be printed out at the location determined by the returning officer. The print-out shall be performed in accordance with the rules applicable to the printing-out of the results from polling day, adapted as required.".

6.10 **Booths**

The following is substituted for section 191 of the Act:

"**191.** Where electronic ballot boxes are used in an election, the polling station shall have the number of polling booths determined by the returning officer.".

6.11 **Ballot papers**

The following is substituted for section 193 of the Act:

"**193.** With the exception of the entry stating the office to be filled, the ballot papers shall be printed in accordance with the model shown in the Schedule, by reversing process so that, on the obverse, the indications appear in white on a dark-coloured background and each circle provided for the affixing of the elector's mark appears in white inside an coloured circle. Every ballot paper shall contain bar codes.".

Section 195 of the Act is revoked.

6.12 **Identification of the candidates**

Section 196 of the Act is amended

(1) by substituting the following for the first paragraph:

"**196.** The ballot paper cards shall contain a ballot paper for the office of mayor and the ballot papers for the office or offices of councillor. Each ballot paper shall allow each candidate to be identified. It shall contain, on the obverse:";

(2) by adding the following after subparagraph 3 of the first paragraph:

"(4) the offices in question and, where applicable, the number of the seat to be filled. The indications of the offices in question shall correspond to those contained in the nomination papers.".

6.13 **Ballot paper cards**

The following is substituted for section 197 of the Act:

"**197.** The ballot paper cards shall contain on the obverse, as shown in the Schedule,

(1) the name of the municipality;

(2) the indication "municipal election" and the date of the poll;

(3) the ballot papers;

(4) the bar code.

The ballot paper cards shall contain, on the reverse, as shown in the Schedule,

(1) a space intended to receive the initials of the deputy returning officer;

(2) a space intended to receive the number of the polling subdivision;

(3) the name and address of the printer;

(4) the bar code.".

6.14 **Confidentiality sleeve**

The Act is amended by inserting the following after section 197:

"**197.1.** The returning officer shall ensure that a sufficient number of confidentiality sleeves are available. Confidentiality sleeves shall be sufficiently opaque to ensure that no mark affixed on the ballot paper may be seen through it.".

6.15 **Withdrawal of a candidate**

Section 198 of the Act is amended by adding the following paragraphs at the end:

"Where electronic ballot boxes are used in an election, the returning officer shall ensure that the memory card is adjusted so that it does not take into account the candidates who have withdrawn.

Any vote in favour of those candidates before or after their withdrawal is null.".

6.16 **Withdrawal of authorization or recognition**

Section 199 of the Act is amended by adding the following paragraph at the end:

"Where electronic ballot boxes are used in an election, the returning officer shall ensure that the memory card is adjusted so that it does not take into account the party or the ticket from which recognition has been withdrawn.".

6.17 **Number of electronic ballot boxes**

The following is substituted for section 200 of the Act:

"**200.** The returning officer must ensure that there are as many electronic ballot boxes as polling places available and that a sufficient number of replacement electronic ballot boxes are available in the event of a breakdown or technical deficiency.

The returning officer shall ensure that a sufficient number of recipients for ballot paper cards and transfer boxes are available for each electronic ballot box.".

6.18 **Provision of polling materials**

Section 204 of the Act is amended by substituting the word "recipient" for the words "ballot box" in the second line of the first paragraph.

6.19 **Examination of the electronic ballot box and polling materials**

The following is substituted for section 207 of the Act:

"**207.** In the hour preceding the opening of the polling stations, the senior deputy returning officer, before the persons present, shall initialize the electronic ballot box for the polling place. The senior deputy returning officer shall ensure that the electronic ballot box displays a total of zero recorded ballot papers by verifying the printed report of the electronic ballot box.

The senior deputy returning officer shall keep the report and show it to any person present who wishes to examine it.

The senior deputy returning officer shall examine the documents and materials provided by the returning officer.

207.1. In the hour preceding the opening of the polling stations, the deputy returning officer and poll clerk shall examine the documents and polling materials provided by the returning officer.".

The following is substituted for section 209 of the Act:

"**209.** Immediately before the hour fixed for the opening of the poll, the senior deputy returning officer, before the deputy returning officers, the poll clerks and the representatives of the candidates present, shall ensure that the recipient of the electronic ballot box is empty.

The recipient shall then be sealed by the senior deputy returning officer. The senior deputy returning officer and the representatives present who wish to do so shall affix their initials to the seal. The electronic ballot box shall be placed in such a way that it is in full view of the polling officers and the electors.".

POLLING PROCEDURE

6.20 **Presence at the polling station**

The following is substituted for the third paragraph of section 214 of the Act:

"In addition, only the deputy returning officer, the poll clerk and the representatives assigned to the polling station, together with the returning officer, the election clerk, the assistant to the returning officer, the senior deputy returning officer and the assistant to the senior deputy returning officer may be present at the station. The officer in charge of information and order may be present, at the request of the deputy returning officer for as long as may be required. The poll runner may be present for the time required to perform his duties. Any other person assisting an elector under section 226 may be present for the time required to enable the elector to exercise his right to vote.".

6.21 **Initialling of ballot papers**

The following is substituted for section 221 of the Act:

"**221.** The deputy returning officer shall give the ballot paper card to which the elector is entitled to each elector admitted to vote, after initialling the ballot paper card in the space reserved for that purpose and entering the number of the polling subdivision. The deputy returning officer shall also give the elector a confidentiality sleeve and a pencil.

The deputy returning officer shall instruct the elector how to insert the ballot paper card in the confidentiality sleeve after having voted.".

6.22 **Voting**

The following is substituted for section 222 of the Act:

"**222.** The elector shall enter the polling booth and, using the pencil given by the deputy returning officer, mark the ballot paper or papers in the space provided for that purpose opposite the indications pertaining to the candidates whom the elector wishes to elect to the offices of mayor, councillor or councillors.

The elector shall insert the ballot paper card, without folding it, into the confidentiality sleeve in such a way that the deputy returning officer's initials can be seen.".

6.23 **Following the vote**

The following is substituted for section 223 of the Act:

"**223.** After marking the ballot paper or papers and inserting the ballot paper card in the confidentiality sleeve, the elector shall leave the polling booth and go to the electronic ballot box.

The elector shall allow the senior deputy returning officer to examine the initials of the deputy returning officer.

The elector or, at the elector's request, the senior deputy returning officer shall insert the ballot paper card into the electronic ballot box without removing it from the confidentiality sleeve.".

6.24 **Automatic acceptance**

The Act is amended by inserting the following after section 223:

"**223.1.** The electronic ballot box shall be programmed to accept automatically every ballot paper card that is inserted and that has been given by the deputy returning officer to an elector.

223.2. If a ballot paper card becomes blocked in the recipient receiving ballot paper cards, the senior deputy returning officer, in the presence of the representatives of the candidates who wish to be present, shall open the recipient, restart the electronic ballot box, close it and seal the recipient again in their presence, before authorizing voting to resume. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seal.

The senior deputy returning officer must report to the returning officer the time during which voting was stopped. Mention of that fact shall be made in the poll book.

If a ballot paper card becomes blocked in the tabulator, the senior deputy returning officer, in the presence of the representatives of the candidates who wish to be present, shall unblock the tabulator and restart the electronic ballot box.".

6.25 **Cancelled ballots**

The following is substituted for section 224 of the Act:

"**224.** The senior deputy returning officer shall prevent the insertion into the electronic ballot box of any ballot paper card that is not initialled or that is initialled by a person other than the deputy returning officer of a polling station. The elector must return to the polling station.

The deputy returning officer of the polling station in question shall, if his initials are not on the ballot paper, initial it before the persons present, provided that the ballot paper card is *prima facie* a ballot paper card given to the elector by the deputy returning officer that was not initialled by oversight or inadvertence. The elector shall return to insert the ballot paper card into the electronic ballot box.

If the ballot paper card has been initialled by a person other than the deputy returning officer, or if the ballot paper card is not a ballot paper card given to the elector by the deputy returning officer, the deputy returning officer of the polling station in question shall not give the elector a new ballot paper card.

The occurrence shall be recorded in the poll book.".

6.26 **Visually impaired person**

Section 227 of the Act is amended:

(1) by substituting the following for the second and third paragraphs:

"The assistant to the senior deputy returning officer shall set up the template and the ballot paper card, give them to the elector, and indicate to the elector the order in which the candidates' names appear on the ballot papers and the particulars entered under their names, where such is the case.

The senior deputy returning officer shall help the elector insert the ballot paper card into the electronic ballot box."; and

(2) by striking out the fourth paragraph.

COMPILATION OF RESULTS AND ADDITION OF VOTES

6.27 **Compilation of results**

The following is substituted for sections 229 and 230 of the Act:

"**229.** After the closing of the poll, the senior deputy returning officer shall place the electronic ballot box in "end of election" mode and print the results compiled by the electronic ballot box. The representatives assigned to the polling stations at the polling place may be present.

The report on the compiled results shall indicate the total number of ballot paper cards, the number of rejected ballot papers and the number of valid votes for each office.

230. After the closing of the poll, the deputy returning officer of each polling station the in polling place shall complete the partial statement of votes according to section 238 and shall give a copy of it to the senior deputy returning officer.

The poll clerk of the polling station shall enter the following information in the poll book:

(1) the number of ballot paper cards received from the returning officer;

(2) the number of electors admitted to vote;

(3) the number of spoiled, refused or cancelled ballot paper cards and the number of unused ballot paper cards;

(4) the names of the persons who have performed duties as election officers or representatives assigned to that station.".

The Act is amended by inserting the following after section 230:

"**230.1.** The senior deputy returning officer shall ensure, before the persons present, that the results entered on the printed report of the electronic ballot box and the total number of unused, spoiled, refused and cancelled ballot paper cards entered on the partial statement of votes of each deputy returning officer correspond to the total number of ballot paper cards issued by the returning officer.

230.2. Using the partial statement or statements of votes, the senior deputy returning officer shall complete an overall statement of votes in a sufficient number so that each representative assigned to a polling station or each candidate can have a copy of it.".

6.28 **Manual counting of the votes**

Sections 231 to 244 of the Act, adapted as required, apply if a manual counting of the votes is necessary.

6.29 **Compiling sheet**

Section 231 of the Act is revoked.

6.30 **Electronic counting of the votes**

Section 232 of the Act is revoked.

6.31 **Rejected ballot papers**

The following is substituted for section 233 of the Act:

"**233.** The electronic ballot box shall be programmed in such a way as to reject any ballot paper that

(1) has not been marked;

(2) has been marked in favour of more than one candidate;

(3) has been marked in favour of a person who is not a candidate.

For the purposes of the poll, the memory card shall be programmed in such a way as to ensure that the electronic ballot box processes and conserves all the ballot paper cards inserted, in other words those containing valid ballot papers and those containing rejected ballot papers, except any ballot paper cards that have been refused.".

6.32 **Rejected ballot papers, procedural omission, valid ballot papers**

Sections 233 to 236 of the Act, adapted as required, shall apply only in the case of a judicial recount.

6.33 **Contested validity**

The following is substituted for section 237 of the Act:

"**237.** The poll clerk, at the request of the senior deputy returning officer, shall enter in the poll book every objection raised by a representative present at the poll in respect of the validity of the results following the printing of the results compiled by an electronic ballot box.".

6.34 **Partial statement of votes, overall statement of votes and copy given to representatives of candidates**

The following is substituted for section 238 of the Act:

"**238.** The deputy returning officer shall draw up the partial statement of votes, setting out

(1) the number of ballot paper cards received from the returning officer;

(2) the number of spoiled, refused or cancelled ballot paper cards or those that were not inserted into the electronic ballot box;

(3) the number of unused ballot paper cards.

The deputy returning officer shall make two copies of the partial statement of votes, including a copy that must be given to the senior deputy returning officer.

Using the partial statements of votes and the results compiled by the electronic ballot box, the senior deputy returning officer shall draw up an overall statement of votes.

The senior deputy returning officer shall immediately give a copy of the overall statement of votes to the representatives.".

Section 240 of the Act is revoked.

6.35 **Separate, sealed and initialled envelopes given to the returning officer**

The following is substituted for sections 241, 242 and 243 of the Act:

"**241.** After the closing of the poll, each deputy returning officer shall place in separate envelopes the list of electors, the poll book, the forms, the spoiled, refused or cancelled ballot paper cards and those that were not inserted into the electronic ballot box, the unused ballot paper cards and the partial statement of votes. Each deputy returning officer shall seal the envelopes and place them in a large envelope, seal it and give it to the senior deputy returning officer. The deputy returning officer, the poll clerk and the representatives assigned to the polling station who wish to do so shall initial the seals.

242. After the results compiled by the electronic ballot box have been printed, in the presence of the candidates or their representatives who wish to be present, the senior deputy returning officer shall place the ballot paper cards from the electronic ballot box recipient in one or more envelopes, and then seal and initial the envelope or envelopes. Any representatives or candidates who wish to do so may initial the seal or seals.

The senior deputy returning officer shall place the envelope or envelopes in a transfer box. He shall remove the memory card from the electronic ballot box and insert it in an envelope with a copy of the report on the results compiled by the electronic ballot box. The senior deputy returning officer shall seal the envelope, initial it and place it in one of the transfer boxes.

The senior deputy returning officer shall place the large envelope received from the deputy returning officers in one of the transfer boxes.

The senior deputy returning officer shall then seal and initial the transfer boxes, allow the representatives who wish to do so to initial them, and give the boxes to the returning officer.

243. The senior deputy returning officer shall place in an envelope a copy of the overall statement of votes stating the results of the election and the partial statements of votes. The senior deputy returning officer shall then seal and initial the envelope and give it to the returning officer.

The representatives assigned to the polling stations may initial the seal.".

Section 244 of the Act is revoked.

6.36 **Addition of votes**

The following is substituted for section 247 of the Act:

"**247.** The returning officer shall proceed with the addition of the votes using the overall statement of votes drawn up by each senior deputy returning officer.".

6.37 **Adjournment of the addition of votes**

The following is substituted for section 248 of the Act:

"**248.** The returning officer shall, if unable to obtain an overall statement of votes that should have been provided, adjourn the addition of votes until the statement has been obtained.

Where it is not possible to obtain an overall statement of votes, or the printed report on the results compiled by an electronic ballot box, the returning officer shall, in the presence of the senior deputy returning officer and the candidates concerned or their representatives if they so wish, print out the results using the memory card taken from the transfer box opened in the presence of the persons listed above.".

6.38 **Placing in envelope**

The following is substituted for section 249 of the Act:

"**249.** After printing and examining the results, the returning officer shall place them in an envelope together with the memory card.

The returning officer shall seal the envelope, put the envelope in the transfer box and then seal the box.

The returning officer, the candidates and the representatives present may initial the seals.".

6.39 **New counting of the votes**

The following is substituted for section 250 of the Act:

"**250.** Where it is not possible to print a new report on the results compiled using the memory card, the returning officer, on the date, at the time and at the place that he determines, in the presence of the candidates or their representatives who wish to be present, shall recover the ballot paper cards used for the office or offices concerned and shall insert them, one by one, in the opening of the electronic ballot box that includes a new programmed memory card. He shall then print out the results compiled by the electronic ballot box.".

6.40 **Notice to the Minister**

Section 251 of the Act is amended by substituting the words "overall statement of votes, the report on the results compiled by the electronic ballot box and the ballot paper cards" for the words "statement of votes and the ballot papers" in the first line of the first paragraph.

6.41 **Access to ballot papers**

The following is substituted for section 261 of the Act:

"**261.** Except for the purposes of an examination of rejected ballot papers pursuant to this agreement, the returning officer or the person responsible for providing access to the documents held by the municipality may not issue copies of the ballot papers used, or allow any person to examine the ballot papers, without being required to do so by an order issued by a court or magistrate.".

6.42 **Application for a recount**

Section 262 of the Act is amended by substituting the words "an electronic ballot box" for the words "a deputy returning officer, a poll clerk or the returning officer" in the first and second lines of the first paragraph.

7. EXAMINATION OF REJECTED BALLOT PAPERS

Within 120 days from the date on which an election is declared or contested, the returning officer must, at the request of the chief electoral officer or the Minister, examine the rejected ballot papers to ascertain the grounds for rejection. The returning officer must verify the ballot paper cards contained in the transfer boxes.

The returning officer must notify the candidates or their representatives that they may be present at the examination. The Chief Electoral Officer and the Minister shall be notified and they may delegate their representatives. The representative of the company that sold or rented out the electronic ballot boxes must attend the examination to explain the operation of the mechanism for rejecting ballot papers and to answer questions from the participants.

The programming parameters for rejecting ballot papers must be disclosed to the participants.

The examination of the rejected ballot papers shall in no way change the results of the poll or be used in a court to attempt to change the results of the poll.

A report on the examination must be drawn up by the returning officer and include, in particular, the assessment sheet for the grounds for rejection and a copy of the related ballot paper. Any other relevant comment concerning the conduct of the poll must also be included.

Prior to the examination of the rejected ballot papers, the rejected ballot papers must be separated from the other ballot papers, using the electronic ballot box duly programmed by the representative of the firm, and a

sufficient number of photocopies must be made for the participants present. The candidates or their representatives may be present during this operation.

8. DURATION AND APPLICATION OF AGREEMENT

The returning officer of the municipality is responsible for the application of this agreement and, consequently, for the proper conduct of the trial application of the new method of voting during general elections and by-elections held before November the seventh 2005.

9. AMENDMENT

The parties agree that this agreement may be amended if need be to ensure the proper conduct of the general elections or subsequent by-elections provided for in the agreement.

Mention of that fact shall be made in the assessment report.

10. ASSESSMENT REPORT

Within 120 days following the general election held on November the second 2003, the returning officer of the municipality shall forward, in accordance with section 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2), an assessment report to the chief electoral officer and the Minister setting out relevant ways to improve the trial and addressing, in particular, the following points:

— the preparations for the election (choice of the new method of voting, communications plan, etc.);

— the conduct of the advance poll and the poll;

— the cost of using the electronic voting system:

– the cost of adapting election procedures;

– non-recurrent costs likely to be amortized;

– a comparison between the actual polling costs and the estimated polling costs using the new methods of voting and the projected costs of holding the general election on November the second 2003 using traditional methods;

— the number and duration of incidents during which voting was stopped, if any;

— the advantages and disadvantages of using the new method of voting;

— the results obtained during the addition of the votes and the correspondence between the number of ballot papers given out to the deputy returning officers and the number of ballot paper cards returned used and unused;

— a survey of rejected ballot papers, if the survey has been completed.

11. APPLICATION OF THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

The Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) shall apply to the general election held on November the second 2003 in the municipality, subject to the provisions of the Act that this agreement amends or replaces.

12. EFFECT OF THE AGREEMENT

This agreement has effect from the time when the returning officer performs the first act for the purposes of an election to which this agreement applies.

AGREEMENT SIGNED IN THREE COPIES:

In Sainte-Thérèse, this 10th day of June 2003

MUNICIPALITY OF SAINTE-THÉRÈSE

By: _____
ÉLIE FALLU, *Mayor*

_____
JEAN-LUC BERTHIAUME, *Clerk*

In Québec, on this 13rd day of June 2003

THE CHIEF ELECTORAL OFFICER

_____
MARCEL BLANCHET

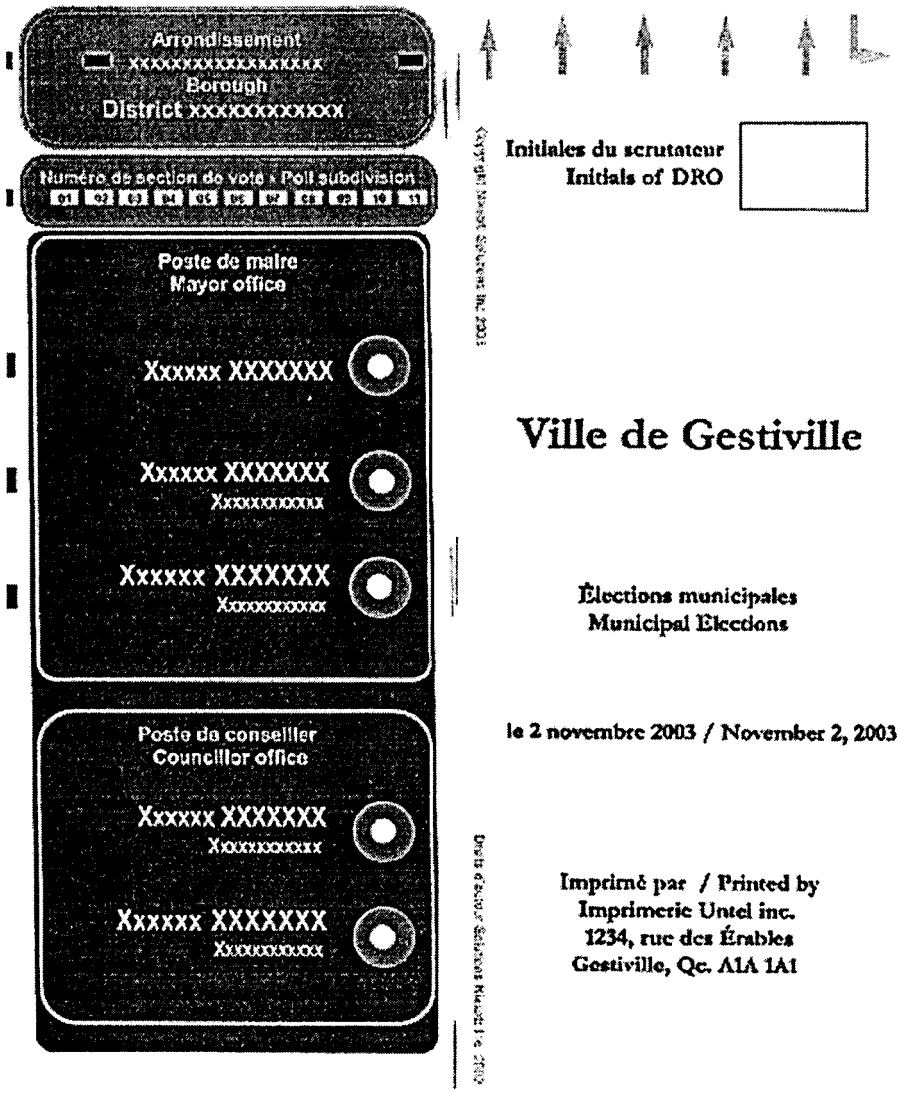
In Québec, on this 3rd day of July 2003

THE MINISTER OF MUNICIPAL AFFAIRS, SPORT AND RECREATION

By: _____
DENYS JEAN, *Deputy Minister*

SCHEDULE

MODEL BALLOT PAPER CARD



Draft Regulations

Draft Regulation

Medical Act
(R.S.Q., c. M-9)

Professional Code
(R.S.Q., c. C-26)

Physicians
— Activities contemplated in section 31 of the Medical Act which may be performed by classes of persons other than physicians

Notice is hereby given, in accordance with the Regulations Act (R.S.Q., c. R-18.1), that the Bureau of the Collège des médecins du Québec, at its meeting held on April 25, 2003, adopted the Regulation respecting the activities contemplated in section 31 of the Medical Act which may be performed by classes of persons other than physicians.

In accordance with the second paragraph of section 19 of the Medical Act (R.S.Q., c. M-9), the "Office des professions du Québec", the "Ordre des infirmières et infirmiers du Québec", the "Ordre des infirmières et infirmiers auxiliaires du Québec", the "Ordre des inhalothérapeutes du Québec", the "Ordre des pharmaciens du Québec", the "Ordre des technologistes médicaux du Québec" and the "Association des orthoptistes" were consulted prior to the adoption of the Regulation.

The Regulation has been transmitted to the Office, which will examine it pursuant to section 95 of the Professional Code (R.S.Q, c. C-26) It will then be submitted, with the recommendation of the Office, to the Government which may, under the same section, approve it with or without amendment, after the expiry of 45 days following this publication.

The Regulation aims at taking into account the new sharing of the professional activities in the field of health resulting from the coming into force of the Act to amend the Professional Code and other legislative provisions as regards the health sector (2002, c. 33) and eliminate the authorizations to perform acts that have become useless due to the new sharing, while ensuring the continuity of the care and services provided to the population.

More particularly, according to the Collège des médecins du Québec:

1° this Regulation replaces the existing regulation by adjusting the terminology to the new legal context and repealing the schedules and provisions that have become obsolete following the adoption of an Act amending the Professional Code and other legislative provisions in the field of health;

2° it also gives effect to the request of the orders mentioned above, by repealing the existing grandfather clauses so as to allow those orders to meet their new responsibilities regarding the persons concerned by these clauses;

3° it allows the nurse first surgical assistant to continue to perform the activities that she is authorized to perform pursuant to the current regulation.

Further information may be obtained by contacting, M[e] Édith Lorquet, Assistant to the Executive, Collège des médecins du Québec, 2170, boulevard René-Lévesque Ouest, Montréal (Québec) H3H 2T8; telephone number: (514) 933-4441, extension 362, or 1 888 633-3246, facsimile number: (514) 933-5374, e-mail: elorquet@cmq.org

Any person having comments to make on the following text 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[e] étage, Québec (Québec) G1R 5Z3. Comments will be forwarded by the Office to the Minister responsible for the administration of legislation respecting the professions; they may also be sent to the professional order that has adopted the Regulation, namely the Collège des médecins du Québec, as well as to interested persons, ministries and organizations.

JEAN-K. SAMSON,
Chairman of the Office des professions du Québec

Regulation respecting the activities contemplated in section 31 of the Medical Act which may be performed by classes of persons other than physicians

Medical Act
(R.S.Q., c. M-9, s. 19, 1st par., subpar. *b*; 2002, c. 33, s. 16)

1. In this Regulation, the following terms mean:

(1) "hospital centre": any hospital centre as contemplated in the Act respecting health services and social services (R.S.Q., c. S-4.2) or in the Act respecting health services and social services for Cree Native persons (R.S.Q., c. S-5);

(2) "direct supervision": the presence of the physician with the recipient while the activity is being performed;

(3) "nurse first surgical assistant": a nurse having a minimum of 3 years experience in an operative room, 1 year of which being in the concerned surgical discipline. Furthermore,

(a) she is the holder of a baccalaureate in nursing sciences issued by a Quebec university he or she has completed at least 60 credits in nursing sciences in the course of a program of university studies other than the program leading to the certificate mentioned in subparagraph *b*;

(b) she is the holder of a certificate in perioperative nursing care issued by the Université du Québec à Trois-Rivières;

(c) she is the holder, since less than one year, of an attestation confirming the successful results of training in cardio pulmonary resuscitation issued, either by an establishment or an instructor recognised by the Heart and Stroke Foundation of Quebec, either by an establishment affiliated to a Quebec faculty of medicine.

2. A nurse first surgical assistant may, in the course of the clinical and technical assistance to the surgeon and according to a medical prescription, perform the complementary clinical and technical acts during the surgical procedure under the following conditions:

(1) she performs this activity under the direct supervision of the surgeon responsible for the surgical procedure;

(2) she performs the activity in a hospital centre.

For the purposes of the performance of this activity, she must maintain her knowledge in cardio pulmonary resuscitation by obtaining an annual attestation either of an establishment or instructor recognized by the Heart and Stroke Foundation of Quebec, either of an establishment affiliated with a Quebec faculty of medicine.

She practices at no time simultaneously as a nurse in internal service.

3. A nurse may perform the activity described at section 2, under the conditions as provided therein, if on 28 December 2000:

(1) she is, either the holder of a certificate in perioperative nurse care issued by the Université du Québec à Trois-Rivières, either enrolled in a program of studies leading to the issuing of this certificate and becomes the holder of the certificate;

(2) she meets the requirement of sub-paragraph *c* of the 3rd paragraph of section 1.

4. This Regulation replaces the Regulation respecting the acts contemplated in section 31 of the Medical Act which may be done by classes of persons other than physicians, enacted on 18 September 1981 (1982, *G.O.* 2, 21).

5. This Regulation comes into force on the fifteenth day after its publication in the *Gazette officielle du Québec*.

5857

Draft Regulation

Medical Act
(R.S.Q., c. M-9)

Professional Code
(R.S.Q., c. C-26)

Physicians
— Professional activities that may be performed by an orthoptist

Notice is hereby given, in accordance with the Regulations Act (R.S.Q., c. R-18.1), that the Bureau of the Collège des médecins du Québec, at its meeting held on April 25, 2003, adopted the Regulation respecting professional activities that may be performed by an orthoptist.

The Regulation has been transmitted to the Office des professions du Québec, which will examine it pursuant to section 95 of the Professional Code (R.S.Q., c. C-26). It will then be submitted, with the recommendation of the Office, to the Government which may, under the same section, approve it with or without amendment, after the expiry of 45 days following this publication.

The Regulation aims at taking into account the new sharing of the professional activities in the field of health resulting from the coming into force of the Act to amend the Professional Code and other legislative provisions as regards the health sector (2002, c. 33) and eliminate the authorizations to perform acts that have become useless due to the new sharing, while ensuring the continuity of the care and services provided to the population.

More particularly, according to the Collège des médecins du Québec:

1° this regulation allows an orthoptist to continue to perform the professional activities that he is authorized to perform under the Regulation respecting the acts contemplated in section 31 of the Medical Act which may be done by classes of persons other than physicians (Suppl. 871), amended by the regulation approved by Order No. 1711-87 of 11 November 1987;

2° this regulation determines, among the professional activities that may be performed by physicians, those that may be performed by an orthoptist or a student duly enrolled in any orientation and integration program leading to a certificate contemplated in that regulation if they are required for the completion of this program;

3° this regulation determines the terms and conditions, in particular of training, according to which such activities may be performed;

4° as for citizens and the public protection, the regulation determines that some professional activities may only be performed if the patient has had an ophtalmological examination as a result of which he was referred to an orthoptist.

Further information may be obtained by contacting, M[e] Édith Lorquet, Assistant to the Executive, Collège des médecins du Québec, 2170, boulevard René-Lévesque Ouest, Montréal (Québec) H3H 2T8; telephone number: (514) 933-4441, extension 362, or 1 888 633-3246, facsimile number: (514) 933-5374, e-mail: elorquet@cmq.org

Any person having comments to make on the following text 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[e] étage, Québec (Québec) G1R 5Z3. Comments will be forwarded by the Office to the Minister responsible for the administration of legislation respecting the professions; they may also be sent to the professional order that has adopted the Regulation, namely the Collège des médecins du Québec, as well as to interested persons, ministries and organizations.

JEAN-K. SAMSON,
Chairman of the Office des professions du Québec

Regulation respecting the professional activities which may be performed by an orthoptist

Professional Code
(R.S.Q., c. C-26, s. 94 *h*; 2002, c. 33. s. 5)

1. The purpose of this Regulation is to determine amongst professional activities that may be performed by physicians those which, pursuant to the conditions provided therein, may be performed by an orthoptist.

2. In this Regulation, the following terms mean:

"orthoptist":

(1) any person holding an orthoptist's certificate issued by the Canadian Orthoptic Society or an equivalent certificate recognized by that body if, in either case, the certificate has been approved by the Collège des médecins du Québec;

(2) any person who, on 11 November 1987, was an orthoptist;

3. Any professional activities as contemplated in section 4 may only be performed if the patient has had an ophtalmological examination as a result of which he was referred to an orthoptist. The professional activities as contemplated in the first to the sixth paragraphs of that section may also be performed in the course of a screening program.

4. An orthoptist may perform, under the conditions provided in this Regulation, the following professional activities:

(1) observing and describing the general aspect of the eyes and accessory parts in relation to strabismus;

(2) evaluating visual acuity and type of fixation including ophthalmoscopic method;

(3) neutralizing prescription glasses;

(4) evaluating oculomotor balance and binocular vision by:

(a) examination by cover test;

(b) evaluating oculomotor balance, ductions, versions and vergences,

(c) evaluating accomodative convergence relations on accommodation;

(d) making pre- and post-operative evaluations of ocular motility and the condition of binocular vision;

(e) evaluating stereoscopic vision;

(f) evaluating diplopia;

(g) using prisms or additional removable lenses;

(h) observing and describing ocular torticolis;

(i) evaluating neutralization;

(j) evaluating retinal correspondence;

(k) looking for basic deviation.

(5) performing Hess test and its derivatives;

(6) evaluating visual field;

(7) treating amblyopia through:

(a) occlusion and/or penalization;

(b) active or passive methods to overcome amblyopia;

(c) home exercise program.

(8) treating the sensory element through:

(a) home exercise program;

(b) accepted methods aimed at:

i. improving accomodative convergence;

ii. increasing vergence amplitude;

iii. eliminating pathological neutralization through occlusion of any other active exercise.

(9) applying drops or ointments for therapeutic purposes;

(10) instilling drops for diagnostic tests;

(11) performing electrooculography and electronystagmography;

(12) performing biometrics and doing calculations for intraocular lenses;

(13) performing ocular photography;

(14) performing refraction;

(15) testing visual aids and ensuring follow-up for rehabilitation of low vision.

5. A student duly enrolled in any orientation and integration program leading to a certificate as contemplated in the first paragraph of section 2, may perform, pursuant to section 4, any activities that may be performed by an orthoptist insofar as they are required for the completion of this program.

6. This Regulation comes into force on the fifteenth day after its publication in the *Gazette officielle du Québec*.

5858

Draft Regulation

Medical Act
(R.S.Q., c. M-9)

Professional Code
(R.S.Q., c. C-26)

Physicians
— Professional activity that may be performed by an employee or a technician in orthopedics

Notice is hereby given, in accordance with the Regulations Act (R.S.Q., c. R-18.1), that the Bureau of the Collège des médecins du Québec, at its meeting held on April 25, 2003, adopted the Regulation respecting medical activities that may be performed by an employee or a technician in orthopedics.

The Regulation has been transmitted to the Office des professions du Québec, which will examine it pursuant to section 95 of the Professional Code (R.S.Q., c. C-26). It will then be submitted, with the recommendation of the Office, to the Government which may, under the same section, approve it with or without amendment, after the expiry of 45 days following this publication.

The Regulation aims at taking into account the new sharing of the professional activities in the field of health resulting from the coming into force of the Act to amend the Professional Code and other legislative provisions as regards the health sector (2002, c. 33), while ensuring the continuity of the care and services provided to the population.

More particularly, according to the Collège des médecins du Québec, this Regulation allows some employees or technicians in orthopedics to continue making plaster casts under certain conditions, as they are allowed to do for the purposes of the Regulation regarding any act as contemplated under section 31 of the Medical Act that may be done by classes of persons other than physicians (Suppl. 871).

Further information may be obtained by contacting, M[e] Édith Lorquet, Assistant to the Executive, Collège des médecins du Québec, 2170, boulevard René-Lévesque Ouest, Montréal (Québec) H3H 2T8; telephone number: (514) 933-4441, extension 362 or 1 888 633-3246, facsimile number: (514) 933-5374, e-mail: elorquet@cmq.org

Any person having comments to make on the following text 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[e] étage, Québec (Québec) G1R 5Z3. Comments will be forwarded by the Office to the Minister responsible for the administration of legislation respecting the professions; they may also be sent to the professional order that has adopted the Regulation, namely the Collège des médecins du Québec, as well as to interested persons, ministries and organizations.

JEAN-K. SAMSON,
Chairman of the Office des professions du Québec

Regulation respecting a professional activity which may be performed by an employee or a technician in orthopedics

Professional Code
(R.S.Q., c. C-26, s. 94 *h*; 2002, c. 33. s. 5)

1. The purpose of this Regulation is to determine amongst professional activities that may be performed by physicians those which, pursuant to the conditions provided therein, may be performed by an employee or a technician in orthopedics.

2. In this Regulation, the following terms mean:

(1) "employee or technician in orthopedics": any person who, on 11 June 1980, was qualified to act as employee or technician in orthopedics under the collective agreements then in force in Québec;

(2) "individual prescription": any prescription given to a person by a physician and which includes any medications, treatments, tests or care to be provided to an identified patient;

3. An employee or a technician in orthopedics may apply plaster casts in accordance with an individual prescription.

4. This Regulation comes into force on the fifteenth day after its publication in the *Gazette officielle du Québec*.

5859

Draft Regulation

Professional Code
(R.S.Q., c. C-26)

Respiratory therapists
— Professional activities that may be engaged in by persons other than respiratory therapists

Notice is hereby given, in accordance with the Regulations Act (R.S.Q., c. R-18.1), that the Bureau of the Ordre professionnel des inhalothérapeutes du Québec adopted the Regulation respecting the professional activities that may be engaged in by persons other than respiratory therapists at its meeting held on 11 and 12 April 2003.

The Regulation was sent to the Office des professions du Québec which will examine it pursuant to section 95 of the Professional Code (R.S.Q., c. C-26). It will then be submitted, with the recommendation of the Office, to the Government which, pursuant to that section, may approve it with or without amendment after the expiry of 45 days following this publication.

The purpose of the Regulation is to take into account the new sharing of professional activities in the health sector arising from the coming into force of the Act to amend the Professional Code and other legislative provisions as regards the health sector (2002, c. 33), while ensuring the continuity of care and services for the public.

More specifically, according to the Ordre professionnel des inhalothérapeutes du Québec, the Regulation

(1) allows persons not eligible for the issue of a permit of the Order to be able to continue to engage in, from among the professional activities that may be engaged in by respiratory therapists, those they are authorized to engage in pursuant to the Regulation respecting the acts contemplated in section 31 of the Medical Act which may be done by classes of persons other than physicians (Suppl. p. 871);

(2) determines, from among the professional activities that may be engaged in by respiratory therapists, those that may be engaged in by respiratory therapy students, medical technologists and nursing assistants; and

(3) sets out the terms and conditions according to which those professional activities may be engaged in.

Further information may be obtained by contacting Andrée Lacoursière, assistant to the Director General, Ordre professionnel des inhalothérapeutes du Québec, bureau 320, 1440, rue Sainte-Catherine Ouest, Montréal (Québec) H3G 1R8, telephone: (514) 931-2900 or toll free: 1 800 561-0029; fax: (514) 931-3621.

Any person having comments to make on the text appearing below 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, 10e étage, Québec (Québec) G1R 5Z3. The comments will be forwarded by the Office to the Minister responsible for the administration of legislation respecting the professions and may also be sent to the professional order that adopted the Regulation, namely the Ordre professionnel des inhalothérapeutes du Québec and to interested persons, departments and bodies.

JEAN-K. SAMSON,
Chairman of the Office des professions du Québec

Regulation respecting professional activities that may be carried on by persons other than respiratory therapists

Professional Code
(R.S.Q., c. C-26, s. 94, par. *h*; 2002, c. 33, s. 5, par. 2)

1. A student registered in a program of studies leading to a diploma giving access to the permit issued by the Ordre professionnel des inhalothérapeutes du Québec may carry on the professional activities of respiratory therapists required to complete the program, on condition that he or she does so under the supervision of a clinical teacher, a preceptor or a respiratory therapist who can intervene promptly.

2. A person who does not meet the conditions for the issue of a permit of the Order may continue to engage in the professional activities listed in paragraph 7 of section 37.1 of the Professional Code, enacted by section 2 of chapter 33 of the Statutes of 2002, if the person was engaging in those activities on February 7, 1987, or legally carried on such activities between June 11, 1980, and March 13, 1985 and if he or she respects the conditions prescribed in order to practice who were applicable then.

3. A medical technologist may, according to a prescription, continue to administer the same cardiopulmonary function tests, using the same technology and the same procedures, he or she administered on January 30, 2003.

4. A member of the Ordre des infirmières et infirmiers auxiliaires du Québec may maintain a tracheostomy requiring ventilatory support assistance, under the following conditions:

(1) he or she has been trained by a respiratory therapist to carry on this activity;

(2) he or she carries on this activity for a hospital centre for long-term care or for a local community service centre;

(3) the health status of the patient has not reached a critical phase.

5. This Regulation comes into force on the fifteenth day following its publication in the *Gazette officielle du Québec*.

5860

Draft Regulation

Professional Code
(R.S.Q., c. C-26)

Respiratory therapists
— Professional activities that may be engaged in by respiratory therapy externs

Notice is hereby given, in accordance with the Regulations Act (R.S.Q., c. R-18.1), that the Bureau of the Ordre professionnel des inhalothérapeutes du Québec adopted the Regulation respecting the professional activities that may be engaged in by respiratory therapy externs at its meeting held on 11 and 12 April 2003.

The Regulation was sent to the Office des professions du Québec which will examine it pursuant to section 95 of the Professional Code (R.S.Q., c. C-26). It will then be submitted, with the recommendation of the Office, to the Government which, pursuant to that section, may approve it with or without amendment after the expiry of 45 days following this publication.

The purpose of the Regulation is to take into account the new sharing of professional activities in the health sector arising from the coming into force of the Act to amend the Professional Code and other legislative provisions as regards the health sector (2002, c. 33), while ensuring the continuity of care and services for the public.

More specifically, according to the Ordre professionnel des inhalothérapeutes du Québec, the Regulation

(1) allows respiratory therapy externs to be able to continue to engage in certain professional activities, from among the professional activities that the member may engage in, pursuant to the Regulation respecting the acts contemplated in section 31 of the Medical Act which may be done by classes of persons other than physicians (Suppl. p. 871), amended by the regulation approved by Order in Council 603-2002 dated 22 May 2002;

(2) sets out the terms and conditions, in particular the training conditions, according to which those professional activities may be engaged in; and

(3) as regards the protection of the public, provides that the respiratory therapy extern must engage in those activities while observing the rules governing respiratory therapists.

Further information may be obtained by contacting Andrée Lacoursière, assistant to the Director General, Ordre professionnel des inhalothérapeutes du Québec, bureau 320, 1440, rue Sainte-Catherine Ouest, Montréal (Québec) H3G 1R8, telephone: (514) 931-2900 or toll free: 1 800 561-0029; fax: (514) 931-3621.

Any person having comments to make on the text appearing below 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, 10e étage, Québec (Québec) G1R 5Z3. The comments will be forwarded by the Office to the Minister responsible for the administration of legislation respecting the professions and may also be sent to the professional order that adopted the Regulation, namely the Ordre professionnel des inhalothérapeutes du Québec and to interested persons, departments and bodies.

JEAN-K. SAMSON,
Chairman of the Office des professions du Québec

Regulation respecting professional activities that may be carried on by respiratory therapy externs

Professional Code
(R.S.Q., c. C-26, s. 94, par. *h*; 2002, c. 33, s. 5, par. 2)

1. In this regulation the meanings of the following terms are:

1° "respiratory therapy extern":

(a) a person who is registered in a program of studies leading to a diploma giving access to the permit issued by the Ordre professionnel des inhalothérapeutes du Québec and who attests to the secretary of the Order that he or she has successfully completed the second year less than 18 months ago; and

(b) is entered in the register of externs held by the Order.

2° "institution": an institution within the meaning of the Act respecting health services and social services and amending various legislation (R.S.Q., c. S-4.2) or within the meaning of the Act respecting health services and social services for Cree Native persons (R.S.Q., c. S-5).

2. A respiratory therapy extern must, to be authorized to carry on the activities mentioned in the first paragraph of section 3,

(1) have completed at least 15 days of an integration program making it possible for the extern to become familiar with the policies and guidelines of the establishment where he or she carries on such activities;

(2) have the required knowledge and skill.

3. A respiratory therapy extern may carry on the following activities, in a general and specialized establishment or in a residential and longterm care centre operated by a health institution, if the health status of the patient is not critical and on condition that he or she does so according to an individual medical prescription and under the supervision of a respiratory therapist currently present in the institution:

(1) installing and verifying equipment used in giving oxygen, that is nasal cannulas, masks, tents, facial tents and oxygen mask nebulizers;

(2) giving aerosol therapy without positive inspiratory pressure;

(3) installing and verifying special equipment to humidify air inhaled.

When carrying on such activities, he or she must observe the rules governing respiratory therapists, in particular those respecting ethics and generally accepted standards of practice.

However, he or she shall not carry on such activities in the following places or sectors of activity: intensive care, including the coronary unit; the operating suit; the recovery room; the emergency department; the neonatalogy unit; and the pulmonary function department.

4. A respiratory therapist extern shall record his or her interventions in the user's record with his or her signature, plus the abbreviation "R.T. extern".

5. This Regulation comes into force on the fifteenth day following its publication in the *Gazette officielle du Québec*.

5861

Draft Regulation

Professional Code
(R.S.Q., c. C-26)

Medical technologists
— Professional activities that may be engaged in by persons other than medical technologists

Notice is hereby given, in accordance with the Regulations Act (R.S.Q., c. R-18.1), that the Bureau of the Ordre professionnel des technologistes médicaux du Québec adopted the Regulation respecting the professional activities that may be engaged in by persons other than medical technologists at its meeting held on 12 June 2003.

The Regulation was sent to the Office des professions du Québec which will examine it pursuant to section 95 of the Professional Code (R.S.Q., c. C-26). It will then be submitted, with the recommendation of the Office, to the Government which, pursuant to that section, may approve it with or without amendment after the expiry of 45 days following this publication.

The purpose of the Regulation is to take into account the new sharing of professional activities in the health sector arising from the coming into force of the Act to amend the Professional Code and other legislative provisions as regards the health sector (2002, c. 33), while ensuring the continuity of care and services for the public.

More specifically, according to the Ordre professionnel des technologistes médicaux du Québec, the Regulation

(1) allows persons not eligible for the issue of a permit of the Order to be able to continue to engage in, from among the professional activities that may be engaged in by medical technologists, those they are authorized to engage in pursuant to the Regulation respecting the acts contemplated in section 31 of the Medical Act which may be done by classes of persons other than physicians (Suppl. p. 871);

(2) determines, from among the professional activities that may be engaged in by medical technologists, those that may be engaged in by biomedical analysis technology students and by candidates to the practice of the profession to obtain a diploma equivalence; and

(3) sets out the terms and conditions according to which those professional activities may be engaged in.

Further information may be obtained by contacting Alain Collette, Director General and Secretary, Ordre professionnel des technologistes médicaux du Québec, 1150, boulevard Saint-Joseph Est, bureau 300, Montréal (Québec) H2J 1L5, telephone: (514) 527-9811 or toll free: 1 800 567-7763; fax: (514) 527-7314.

Any person having comments to make on the text appearing below 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, 10e étage, Québec (Québec) G1R 5Z3. The comments will be forwarded by the Office to the Minister responsible for the administration of legislation respecting the professions and may also be sent to the professional order that adopted the Regulation, namely the Ordre professionnel des technologistes médicaux du Québec and to interested persons, departments and bodies.

JEAN-K. SAMSON,
Chairman of the Office des professions du Québec

Regulation respecting professional activities that may be engaged in by persons other than medical technologists

Professional Code
(R.S.Q., c. C-26, s. 94, par. *h*; 2002, c. 33, s. 5, par. 2)

1. A student registered in a program of study leading to a diploma giving access to a permit delivered by the Ordre professionnel des technologistes médicaux du Québec may engage in, among the professional activities that may be engaged in by medical technologists, those required for the purposes of completing the program, on condition that they are performed under the supervision of a professor or clinical instructor who is available to intervene quickly if necessary.

2. A candidate referred to in section 6 of the Regulation respecting the standards for equivalence of diplomas for the issue of a permit by the Ordre professionnel des technologistes médicaux du Québec, approved by Order in Council 1654-92 dated November 11, 1992, may engage in, among the professional activities that may be engaged in by medical technologists, those required for the purposes of completing training that allow such candidate to obtain a diploma equivalence, on condition that they are performed under the supervision of a professor or tutor who is available to intervene quickly if necessary.

3. A person who does not fulfil the conditions for the issue of a permit by the Order may continue to exercise the following professional activities listed in subparagraphs *a* and *c* of paragraph 6 of section 37.1 of the Professional Code, enacted by section 2 of chapter 33 of the Statutes of 2002, if he or she engaged in such activities on June 11, 1980, and was in compliance with the requirements that applied to him or her at such time:

1° take specimens;

2° introduce an instrument, according to a prescription, into a peripheral vein.

4. This regulation shall come into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

5862

Draft Regulation

Nurses Act
(R.S.Q., c. I-8)

Professional Code
(R.S.Q., c. C-26)

Nurses
— Acts contemplated in section 36 of the Nurses Act which may be performed by classes of persons other than nurses
— Amendment

Notice is hereby given, in accordance with the Regulations Act (R.S.Q., c. R-18.1), that the Bureau of the Ordre des infirmières et infirmiers du Québec, at its meeting held on June 19 and 20, 2003, adopted the "Regulation to amend the Regulation respecting the acts contemplated in section 36 of the Nurses Act which may be performed by classes of persons other than nurses".

In accordance with the second paragraph of section 12 of the Nurses Act (R.S.Q., c. I-8), the Office des professions du Québec and the Ordre des infirmières et infirmiers auxiliaires du Québec were consulted prior to the adoption of this regulation.

The said regulation has been transmitted to the Office for examination in accordance with section 95 of the Professional Code (R.S.Q., c. C-26). Thereafter, it will be submitted, with the recommendation of the Office, to the Government which, in accordance with the same section, may approve it, with or without amendment, following the expiry of a period of 45 days from the publication of this notice.

This regulation aims to take into account the new division of professional activities in the health sector resulting from the coming into force of the Act to amend the Professional Code and other legislative provisions as regards the health sector (2002, c. 33), while ensuring the continuity of the care and services offered to the population.

More specifically, the Ordre des infirmières et infirmiers du Québec advises that this regulation replaces section 5.03 of the current regulation so as to allow persons who do not fulfil the conditions for issuance of a permit of the Ordre des infirmières et infirmiers auxiliaires du Québec to continue to perform the acts A-2 and A-3 specified in Schedule A to the said regulation.

Further information may be obtained from Hélène d'Anjou, attorney, Ordre des infirmières et infirmiers du Québec, 4200, boulevard Dorchester Ouest, Montréal (Québec) H3Z 1V4; telephone: (514) 935-2505, extension 319, or 1 800 363-6048; fax: (514) 935-3147.

Persons wishing to submit comments concerning the text reproduced below are invited to forward them, before the expiry of the 45-day period, to the Chairman of the Office des professions du Québec, 800, place D'Youville, 10e étage, Québec (Québec) G1R 5Z3. These comments will be communicated by the Office to the Minister Responsible for the Administration of Legislation respecting the Professions and may also be submitted to the professional order that adopted the regulation, namely, the Ordre des infirmières et infirmiers du Québec, and to the persons, ministries and agencies concerned.

JEAN-K. SAMSON,
Chairman of the Office des professions du Québec

Regulation to amend the Regulation respecting the acts contemplated in section 36 of the Nurses Act which may be performed by classes of persons other than nurses*

Nurses Act
(R.S.Q., c. I-8, s. 12, 1st par., subpar. *a*)

1. Section 5.03 of the Regulation respecting the acts contemplated in section 36 of the Nurses Act which may be performed by classes of persons other than nurses is replaced by the following:

"Notwithstanding section 5.01, any person who does not meet the conditions for issuance of a permit of the Ordre des infirmières et infirmiers auxiliaires du Québec and who, on 11 July 1980, was practising the activities described in paragraphe *p* of section 37 of the Professional Code, may continue to carry out the acts A-2 and A-2 specified in Schedule A, subject to Division II.".

2. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

5863

* The sole amendment to the Regulation respecting the acts contemplated in section 36 of the Nurses Act which may be performed by classes of persons other than nurses (R.R.Q., c. I-8, r.1) was made by regulation approved by Order in Council No. 218-2002 of March 6, 2002 (2002, *G.O.* 2, 1586).

Draft Regulation

Professional Code
(R.S.Q., c. C-26)

Nursing assistants
— Professional activities that may be engaged in by persons other than nursing assistants

Notice is hereby given, in accordance with the Regulations Act (R.S.Q., c. R-18.1), that the Bureau of the Ordre des infirmières et infirmiers auxiliaires du Québec adopted the Regulation respecting the professional activities that may be engaged in by persons other than nursing assistants at its meeting held on 30 May 2003.

The Regulation was sent to the Office des professions du Québec which will examine it pursuant to section 95 of the Professional Code (R.S.Q., c. C-26). It will then be submitted, with the recommendation of the Office, to the Government which, pursuant to that section, may approve it with or without amendment after the expiry of 45 days following this publication.

The purpose of the Regulation is to take into account the new sharing of professional activities in the health sector arising from the coming into force of the Act to amend the Professional Code and other legislative provisions as regards the health sector (2002, c. 33), while ensuring the continuity of care and services for the public.

More specifically, according to the Ordre des infirmières et infirmiers auxiliaires du Québec, the Regulation

(1) allows persons not eligible for the issue of a permit of the Order to be able to continue to engage in, from among the professional activities that may be engaged in by nursing assistants, those they are authorized to engage in pursuant to the Regulation respecting the acts contemplated in section 36 of the Nurses Act which may be performed by classes of persons other than nurses (R.R.Q., 1981, c. I-8, r.1);

(2) determines, from among the professional activities that may be engaged in by nursing assistants, those that may be engaged in by nursing assistant students; and

(3) sets out the terms and conditions according to which those professional activities may be engaged in.

Further information may be obtained by contacting Georges Ledoux, Ordre des infirmières et infirmiers auxiliaires du Québec, 531, rue Sherbrooke Est, Montréal (Québec) H2L 1K2, telephone: (514) 282-9511 or toll free: 1 800 283-9511; fax: (514) 282-0631.

Any person having comments to make on the text appearing below 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, 10e étage, Québec (Québec) G1R 5Z3. The comments will be forwarded by the Office to the Minister responsible for the administration of legislation respecting the professions and may also be sent to the professional order that adopted the Regulation, namely the Ordre des infirmières et infirmiers auxiliaires du Québec and to interested persons, departments and bodies.

JEAN-K. SAMSON,
Chairman of the Office des professions du Québec

Regulation respecting the professional activities that may be engaged in by persons other than nursing assistants

Professional Code
(R.S.Q., c. C-26, s. 94, par. *h*; 2002, c. 33, s. 5, par. 2)

1. A student enrolled in the program of studies leading to a diploma giving access to a permit issued by the Ordre des infirmières et infirmiers auxiliaires du Québec may, among the professional activities that may be engaged in by nursing assistants, engage in activities that are required for the purpose of completing the program, on the condition that they are engaged in under the supervision of a teacher or training supervisor who is available for intervention on short notice.

2. A person who does not meet the conditions for the issue of a permit of the Order may continue to engage in the professional activities listed in paragraph 5 of section 37.1 of the Professional Code, enacted by section 2 of chapter 33 of the Statutes of 2002, if the person was engaging in those activities on 11 July 1980 and if the person meets the conditions of practice applicable to the person at that time.

3. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

5864

Index Statutory Instruments

Abbreviations: **A**: Abrogated, **N**: New, **M**: Modified